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HOUSE OF COMMONS

Second Session—Twenty-sixth Parliament

1964

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STANDING COMMITTEE

ON

MARINE AND FISHERIES

*Chairman:* Mr. C. R. GRANGER

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 1

GOVT PUBNS

THURSDAY, APRIL 30, 1964

THURSDAY, JUNE 4, 1964

TUESDAY, JUNE 9, 1964

THURSDAY, JUNE 11, 1964

RESPECTING

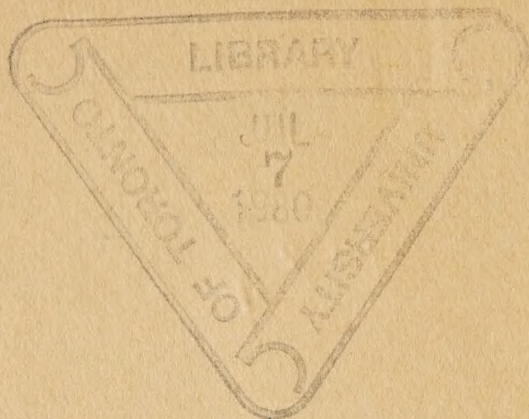
BILL S-17, An Act respecting the Territorial Sea and Fishing Zones  
of Canada.

WITNESSES:

The Honourable Paul Martin, Secretary of State for External Affairs, and  
the Honourable Hédard J. Robichaud, Minister of Fisheries.

ROGER DUHAMEL, F.R.S.C.  
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1964





STANDING COMMITTEE  
ON  
MARINE AND FISHERIES  
*Chairman:* C. R. Granger  
*Vice-Chairman:* Alexandre Cyr

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Messrs.

Armstrong,  
Barnett,  
Basford,  
Béchar, d,  
Bélang, er,  
Bigg,  
Blouin,  
Cadieu (Meadow Lake),  
Cashin,  
Chatterton,  
Coates,

Crouse,  
Danforth,  
Dionne,  
Dubé,  
Godin,  
Groos,  
Howard,  
Lachance,  
Leduc,  
MacLean (*Queens*),  
Macquarrie,

McLean (*Charlotte*),  
Mullally,  
Noble,  
Patterson,  
Pugh,  
Rhéaume,  
Stefanson,  
<sup>1</sup>Stewart,  
Tucker,  
<sup>2</sup>Webster,  
Whelan—35.

(Quorum 10)

<sup>1</sup> Replaced Mr. Foy on June 3, 1964.

<sup>2</sup> Replaced Mr. Mather on June 3, 1964.



## ORDERS OF REFERENCE

HOUSE OF COMMONS,  
FRIDAY, April 10, 1964.

*Resolved*,—That the following Members do compose the Standing Committee on Marine and Fisheries:

Messrs.

Armstrong,	Cyr,	Macquarrie,
Barnett,	Danforth,	Mather,
Basford,	Dionne,	McLean ( <i>Charlotte</i> )
Béchar, d,	Dubé,	Mullally,
Bélanger,	Foy,	Noble,
Bigg,	Godin,	Patterson,
Blouin,	Granger,	Pugh,
Cadieu ( <i>Meadow Lake</i> ),	Groos,	Rhéaume,
Cashin,	Howard,	Stefanson,
Chatterton,	Lachance,	Tucker,
Coates,	Leduc,	Whelan—35.
Crouse,	MacLean ( <i>Queens</i> ),	

(Quorum 10)

WEDNESDAY, March 11, 1964.

*Ordered*,—That the said Committee be empowered to examine and inquire into all such matters and things as may be referred to it by the House, and to report from time to time its observations and opinions thereon, with power to send for persons, papers and records.

FRIDAY, May 1, 1964.

*Ordered*,—That the Standing Committee on Marine and Fisheries be empowered to print such papers and evidence as may be ordered by the Committee, and that Standing Order 66 be suspended in relation thereto.

MONDAY, May 11, 1964.

*Ordered*,—That the name of Mr. Prittie be substituted for that of Mr. Howard on the Standing Committee on Marine and Fisheries.

THURSDAY, May 28, 1964.

*Ordered*,—That the name of Mr. Howard be substituted for that of Mr. Prittie on the Standing Committee on Marine and Fisheries.

THURSDAY, May 28, 1964.

*Ordered*,—That Bill S-17, An Act respecting the Territorial Sea and Fishing Zones of Canada, be referred to the Standing Committee on Marine and Fisheries.

WEDNESDAY, June 3, 1964.

*Ordered*,—That the names of Messrs. Stewart and Webster be substituted for those of Messrs. Foy and Mather respectively on the Standing Committee on Marine and Fisheries.



## STANDING COMMITTEE

MONDAY, June 8, 1964.

*Ordered,*—That the Standing Committee on Marine and Fisheries be granted leave to sit while the House is sitting; that it be empowered to engage technical and clerical personnel, as it may deem necessary, to evaluate the information available to the Committee and to obtain a balanced analysis of that information; and that the said staff be responsible and report to the Committee.

Attest.

LEON-J. RAYMOND,  
*The Clerk of the House.*



## REPORTS TO THE HOUSE

FRIDAY, May 1, 1964.

The Standing Committee on Marine and Fisheries has the honour to present its

### FIRST REPORT

Your Committee recommends that it be empowered to print such papers and evidence as may be ordered by the Committee, and that Standing Order 66 be suspended in relation thereto.

Respectfully submitted,  
C. R. GRANGER,  
*Chairman.*

*(Concurred in on the same day)*

MONDAY, June 8, 1964.

The Standing Committee on Marine and Fisheries has the honour to present its

### SECOND REPORT

Your Committee recommends:

1. That it be granted leave to sit while the House is sitting.
2. That it be empowered to engage technical and clerical personnel, as it may deem necessary, to evaluate the information available to the Committee and to obtain a balanced analysis of that information. That the said staff be responsible and report to the Committee.

Respectfully submitted,  
C. R. GRANGER,  
*Chairman.*

*(Concurred in on the same day.)*







## MINUTES OF PROCEEDINGS

THURSDAY, April 30, 1964.

(1)

The Standing Committee on Marine and Fisheries met this day, at 9:30 for organization purposes.

*Members present:* Messrs. Armstrong, Béchard, Bélanger, Cadieu, Cashin, Chatterton, Crouse, Cyr, Danforth, Dubé, Foy, Godin, Granger, Groos, Howard, Leduc, Macquarrie, McLean (*Charlotte*), Mullally, Noble, Patterson, Rhéaume, Stefanson, Tucker, Whelan (25).

The Clerk attending, and having called for nominations, Mr. Mullally moved, seconded by Mr. Tucker, that Mr. Granger be Chairman of the Committee.

On motion of Mr. Groos, seconded by Mr. Béchard, nominations were closed.

There being no other nominations, the Clerk declared Mr. Granger elected Chairman and he invited him to take the Chair.

Mr. Granger thanked the Committee for their confidence and he invited nominations for the post of Vice-Chairman.

Mr. Noble, seconded by Mr. Howard, moved that Mr. Crouse be elected Vice-Chairman.

Mr. McLean (*Charlotte*), seconded by Mr. Béchard, moved that Mr. Cyr be elected Vice-Chairman of the Committee.

Mr. Tucker, seconded by Mr. Bélanger, moved that nominations be closed.

The question being put on the motion of Mr. Noble, it was resolved in the negative. Yeas—10; Nays—13.

Mr. Howard, seconded by Mr. Rhéaume, moved that the second motion be adopted unanimously and Mr. Cyr was declared elected Vice-Chairman.

Thereupon, on motion of Mr. Tucker, seconded by Mr. Foy,

*Resolved*,—That permission be sought from the House to print such papers and evidence as may be ordered by the Committee.

On motion of Mr. Bélanger, seconded by Mr. Howard,

*Resolved*,—That a subcommittee on Agenda and Procedure be appointed, comprising the Chairman and six (6) other members to be named by him after consultation with the whips of the different parties.

After discussion, Mr. Howard, seconded by Mr. Rhéaume, moved that the Estimates of the Department of Fisheries, 1964-65, be referred to the Committee. The motion was allowed to stand.

The Chairman invited the members of the Committee to send him in writing their suggestions for topics to be discussed by the Committee. The Sub-Committee will consider the course that should be taken.

There being no other business before the Committee, Mr. Howard, seconded by Mr. Tucker, moved that the Committee adjourn to the call of the Chair.

At 10:00, the Committee adjourned to the call of the Chair.



THURSDAY, June 4, 1964.

(2)

The Standing Committee on Marine and Fisheries met this day at 9:45 a.m., Mr. Granger, the Chairman, presiding.

*Members present:* Messrs. Barnett, Basford, Béchard, Cashin, Chatterton, Crouse, Cyr, Danforth, Dionne, Dubé, Granger, Groos, Howard, MacLean (*Queens*), Mullally, Noble, Stewart and Webster—(18).

The Chairman asked what was the wish of the Committee regarding the necessity of French official shorthand reporters attending the meetings of the Committee, or in their absence, the use of recording machines. After discussion, the Committee agreed to proceed with facilities available.

Bill S-17, An Act respecting the Territorial Sea and Fishing Zones of Canada, has been referred to the Committee by the House.

The Chairman presented verbally the *First report* of the Subcommittee on Agenda and Procedure, which held two meetings as follows:

Messrs. Basford, Cyr, MacLean (*Queens*), Howard, Patterson and Bélanger constitute, with the Chairman Mr. Granger, the Subcommittee on Agenda and Procedure.

At the meeting held on May 7, 1964, all the members were present.

At the meeting held on June 1, 1964, Messrs. Granger, Basford, MacLean and Howard were present.

The Subcommittee discussed the following subjects:

1. The motion of Mr. Howard, seconded by Mr. Rhéaume, to have the Estimates of the Department of Fisheries for 1964-65 referred to the Committee. That motion was allowed to stand.

2. A film on the killing of seals would be shown, in cooperation with the Department of Fisheries and the Canadian Broadcasting Corporation, not as a regular meeting of the Committee but as a general showing for all people interested.

3. Bill S-17, An Act respecting the Territorial Sea and Fishing Zones of Canada, has been referred to the Committee and witnesses will be heard in connection thereto.

4. Sitting hours for the Committee have been discussed and a recommendation will be made to the Committee.

5. The printing of Proceedings and Evidence has been discussed and a recommendation will be made to the Committee.

6. The possibility of sitting while the House is sitting will also be recommended to the Committee.

7. The hiring of non-governmental technical experts has also been considered, to help evaluate the information made available to the Committee.

8. Lists of associations and people interested in the Bill referred to the Committee will also be obtained from the Department of Fisheries and from the Fisheries Council.

9. The Canadian Universities Foundation will also be asked to supply a list of experts who could be consulted by the Committee in connection with Bill S-17.

The Subcommittee on Procedure and Agenda recommends:

1. That the Committee request authorization to sit while the House is sitting.

2. That the Committee be authorized to engage technical and clerical personnel as it may deem necessary.



3. That a definite number of copies in English and in French be established for the printing of Proceedings and Evidence.

4. That a list of witnesses to appear before the Committee be established.

5. That a list be obtained from the Department of Fisheries and from the Fisheries Council, of the bodies and individuals interested in the matters before the Committee.

6. That Monday morning, Wednesday morning and Friday morning be designated as days for the regular meetings of the Committee.

Thereupon, Mr. Basford moved, seconded by Mr. MacLean, That the Committee seek authorization to sit while the House is sitting.

The question being put on the said motion, it was resolved in the affirmative, Yeas: 13, Nays: 2.

Mr. Crouse moved, seconded by Mr. Howard, That the Committee be empowered to engage technical and clerical personnel, as it may deem necessary, to evaluate the information available to the Committee and to obtain a balanced analysis of that information. That the said staff be responsible and report to the Committee.

The question being put on the above motion, it was resolved in the affirmative, Yeas: 16, Nays: 0.

Mr. Howard, seconded by Mr. Basford, moved,—That the Committee print 1,500 copies in English and 500 copies in French of its Proceedings and Evidence.

Discussion arising, the question was put on the above motion and it was resolved in the affirmative, Yeas: 16; Nays: 0.

The Clerk read a letter and a telegram from Mr. G. F. Maclaren and Mr. Homer Stevens respectively, who wish to appear before the Committee as witnesses (*See Evidence of this day*).

Mr. Stewart, seconded by Mr. Cashin, moved, That the Honourable Secretary of State for External Affairs and the Honourable Minister of Fisheries be invited to appear before the Committee as the first two witnesses, in that order, followed by officials of the Departments concerned and other witnesses.

Discussion arising thereon, the question was put on the said motion and it was resolved in the affirmative, Yeas: 16; Nays: 0.

Mr. Cashin, seconded by Mr. Barnett, moved, That the Subcommittee on Agenda and Procedure be authorized to establish a list of witnesses to appear before the Committee.

Mr. Stewart suggested that, as much as possible, witnesses should be invited to submit their briefs in advance so that the members of the Committee may have an opportunity to consult them before the witnesses appear before the Committee.

The question being put on the motion of Mr. Cashin, it was resolved in the affirmative.

The Chairman, at the suggestion of the Subcommittee on Agenda and Procedure, recommends that the Committee hold its regular meetings on Monday morning, Wednesday morning and Friday morning. Discussion arising thereon, the Committee asked the Subcommittee to reconsider this recommendation.

A general discussion followed in connection with the hiring of staff to do research for the Committee.

At 11:15, on motion of Mr. Howard, seconded by Mr. Cyr, the Committee adjourned until Tuesday, June 9 at 10:00 o'clock a.m.



TUESDAY, June 9, 1964.

(3)

The Standing Committee on Marine and Fisheries met at 10:07 this day. Mr. Granger, Chairman, presided.

*Members present:* Messrs. Armstrong, Barnett, Basford, Béchard, Bélanger, Chatterton, Crouse, Cyr, Granger, Groos, Howard, MacLean (*Queens*), Macquarrie, McLean (*Charlotte*), Mullally, Noble, Stefanson, Stewart, Tucker and Webster—19.

*In attendance:* The Honourable Paul Martin, Secretary of State for External Affairs, and the Honourable H. Robichaud, Minister of Fisheries.

*Also in attendance:* Messrs. Marcel Cadieux, Under-Secretary of State for External Affairs; M. H. Wershof, Legal Adviser and Assistant Under-Secretary of State for External Affairs; A. E. Gotlieb, Deputy Legal Adviser, Department of External Affairs; Dr. A. W. H. Needler, Deputy Minister of Fisheries; and Mr. S. V. Ozere, Assistant Deputy Minister.

The Chairman read the SECOND REPORT of the Subcommittee on Agenda and Procedure, as follows:

The Subcommittee met Monday, June 8, 1964, under the Chairmanship of Mr. Granger, Messrs. Basford and MacLean (*Queens*) attending.

After discussion, the Subcommittee recommends:

1. That the Committee meet on Monday from 10:00 a.m. to 1:00 p.m. and on Thursday at 9:30 a.m.
2. That the witnesses to appear before the Committee should be as follows:

Tuesday, June 9	The Honourable Paul Martin The Honourable Hédard Robichaud
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Thursday, June 11	The Honourable Hédard Robichaud
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Monday, June 15	Mr. Homer Stevens, United Fisherman & Allied Workers' Union, Vancouver
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Monday, June 22	Fisheries Council
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3. The appearance of other witnesses, namely:  
Mr. M. E. Corlett, representing Airlines;

Organizations recommended to the Committee either by Fishermen's Unions, the Department of Fisheries or the Fisheries Council, will be decided upon later on.

The interested associations will be informed in writing of the sittings of the Committee.

After discussion, on motion of Mr. Basford, seconded by Mr. Béchard, the second report was adopted by the Committee.

The Chairman called Clause I of Bill S-17, and introduced the Secretary of State for External Affairs.

The Honourable Paul Martin read a prepared statement and was examined.

At 11:30, the Secretary of State for External Affairs asked to be excused and the Chairman then introduced the Minister of Fisheries.

The Honourable H. Robichaud read a prepared statement and answered questions.

Both Ministers agreed to supply the Committee with maps, charts, bibliography and other documentation related to the study of Bill S-17.

Mr. Howard, seconded by Mr. Tucker, moved,—

*That the Committee adjourn at 12:30.*



In amendment thereto, Mr. Basford, seconded by Mr. Tucker, moved,—

*That* the Committee adjourn until 4:00 p.m. this day. The question being put on the motion of Mr. Basford, it was resolved in the affirmative, YEAS: 8; NAYS: 2.

At 12:32 the Committee adjourned until 4:00 p.m. this day.

#### AFTERNOON SITTING

(4)

The Standing Committee on Marine and Fisheries met this day at 4:13 o'clock p.m. The Chairman, Mr. Granger, presided.

*Members present:* Messrs. Armstrong, Barnett, Basford, Bélanger, Crouse, Cyr, Danforth, Granger, Howard, Lachance, MacLean (*Queens*), McLean (*Charlotte*), Mullally, Noble, Patterson, Stefanson, Stewart, Tucker and Webster—19.

*In attendance:* The Honourable H. Robichaud, Minister of Fisheries.

*Also in attendance:* Dr. A. W. H. Needler, Deputy Minister of Fisheries; Mr. S. V. Ozere, Assistant Deputy Minister of Fisheries; and from the Department of External Affairs: Messrs. M. H. Wershof, Legal Adviser and Assistant Under Secretary; and A. E. Gotlieb, Deputy Legal Adviser.

The document "Law of the Sea" requested at the previous meeting by the Committee was tabled.

Mr. Basford, seconded by Mr. Stewart, moved that the said document be reproduced in today's proceedings. (*See Appendix "A"*).

Examination of the Honourable H. Robichaud was resumed.

The Chairman informed the Committee of the wish expressed by a witness to appear on a different date from the one which has been set for him, and debate arising thereon, Mr. MacLean moved, seconded by Mr. Barnett,

*That* the Subcommittee be empowered to modify the order in which witnesses would be heard as agreed upon by this morning's sitting of the Committee to the extent that it may be deemed necessary to allow witnesses to appear.

And the question being put on the motion of Mr. MacLean, the result was as follows: YEAS: 8; NAYS: 8. And the question being put a second time, at the Chairman's suggestion, the result was the same: YEAS: 8; NAYS: 8. And the Chairman casting his vote in the affirmative, the motion was adopted.

Thereupon, Mr. Basford, seconded by Mr. Stewart, moved that the Committee adjourn.

At 5.40 o'clock p.m., examination of the witness still continuing, the Committee adjourned until Thursday, June 11 at 9:30 o'clock a.m.

THURSDAY, June 11, 1964.

(5)

The Standing Committee on Marine and Fisheries met at 9.45 a.m. this day. Mr. Granger, the Chairman, presided.

*Members present:* Messrs. Basford, Bélanger, Chatterton, Crouse, Cyr, Granger, Groos, Howard, MacLean (*Queens*), McLean (*Charlotte*), Mullally, Noble, Patterson, Stefanson, Stewart and Webster—16.

*In attendance:* The Honourable H. Robichaud, Minister of Fisheries.

*Also in attendance:* Dr. A. W. H. Needler, Deputy Minister of Fisheries; Mr. S. V. Ozere, Assistant Deputy Minister of Fisheries; and from the



Department of External Affairs: Messrs. M. H. Wershof, Legal Adviser and Assistant Under Secretary; and A. E. Gotlieb, Deputy Legal Adviser.

The Chairman read the THIRD REPORT of the Subcommittee on Agenda and Procedure, making the following recommendations:

1. That the examination of the Honourable H. Robichaud, Minister of Fisheries, be continued on Thursday, June 11 at 9.30 o'clock a.m. The Minister will be accompanied by officials from his Department and from the Department of External Affairs.

2. That Mr. M. E. Corlett, representing some airlines, be heard on Monday, June 15 at 10.00 o'clock a.m.

3. That Mr. Homer Stevens, representing the United Fishermen and Allied Workers' Union, be heard on Thursday, June 18, at 9:30 o'clock a.m.

4. That the Fisheries Council be heard on Monday, June 22 at 10:00 o'clock a.m.

5. That the following associations be informed of the sittings of the Committee:

The Newfoundland Federation of Fishermen	—Mr. P. Antle
United Fishermen and Allied Workers' Union	—Homer Stevens, Secretary Treasurer
Native Brotherhood of B.C. Fishing Vessel Owners Assn. of B.C.	—Guy R. Williams, President
Pacific Trollers Association	—T. Cameron, Secretary
Prince Rupert Fishermen's Co-op Association	—R. Stanton, Secretary
Deep Sea Fishermen's Union of B.C.	—K. F. Harding, General Manager
Prince Rupert Fishing Vessel Owners Assn.	—Wm. Brett, Secretary
B.C. Fishermen's Independent Co-op Assn.	—Matt Waters, Secretary
Native Fishing Vessel Owners Assn.	—Julian Gordon, Secretary
Canoe Pass Fishermen's Co-op Assn.	—Reg. Cook, Secretary
	—M. A. Vidulich, Secretary

The above-mentioned associations are to appear before the Committee, if they so desire, during the week starting on Monday, June 22nd at their own expense.

On motion of Mr. Basford, seconded by Mr. Cyr, the third report of the Subcommittee on Agenda and Procedure was adopted.

The witness was examined at length by the Committee.

The document "Statement on Foreign Fishing off Canadian Coasts" was tabled by the Minister of Fisheries.

Mr. Barnett, seconded by Mr. Basford, moved,—

*Resolved*,—the said document be reproduced in today's proceedings, with the understanding that the figures contained therein are considered as estimates only.

Mr. Howard, seconded by Mr. Barnett, moved,—



*That* the Committee adjourn at 12:00 o'clock noon this day.

At 12:01, examination of the witness still continuing, the Committee adjourned until Monday, June 15 at 10:00 o'clock a.m.

Marcel Roussin,  
*Clerk of the Committee.*







## EVIDENCE

THURSDAY, June 4, 1964.

The CHAIRMAN: Gentlemen, we have a quorum.

First, I believe I should give a resume of what was discussed by the steering subcommittee.

Mr. CYR: Mr. Chairman, I notice there is no French reporter present. I thought I should bring that to your attention at this time rather than interrupting the course of the meeting later in his regard.

The CHAIRMAN: Is it the wish of the members of the committee that we should have a French reporter present. My understanding at the present time is that a translation of the record will be made into French. But, If there is a desire to have a French reporter as well as an English reporter we will discuss that at the next meeting of the steering committee.

What are the wishes of the committee in this respect?

Mr. DUBÉ: Mr. Chairman, this same problem came up in another committee and it was finally decided to bring in a tape recorder to solve the problem. Now, there may not be any need for a French reporter being present this morning. However, later on, if there is such a need perhaps we could provide the same service as was provided in the other committee, namely tape recording. I do not think we need that this morning.

The CHAIRMAN: Are there any further comments on this subject. As I said, we will take this matter up with the steering committee.

Mr. HOWARD: I think this would hinge on what the French speaking members desire rather than perhaps what some of the rest of us desire.

The CHAIRMAN: Then perhaps we could hear suggestions from them.

Mr. BASFORD: Mr. Chairman, no one has asked for a French reporter so I suggest we proceed with the facilities we have.

The CHAIRMAN: I will run over the subjects discussed by the steering committee.

First, there was a motion by Mr. Howard, seconded by Mr. Rhéaume, that the estimates for the Department of Fisheries for 1964-65 be referred to the committee. That was allowed to stand, if you recall, and the steering committee decided for the time being that it should remain in that same category, that it should be allowed to stand.

The showing of a film on the killing of seals was discussed and it was decided that the chairman would approach the Department of Fisheries to find out about this film and, if available, perhaps we could have it for a showing to members of the house rather than as something specifically for this committee.

I have made inquiries in this regard and the information I have is that the film is in French only and the Department of Fisheries has asked the C.B.C. whether or not this film would be available. I have not received a decision on this to date but I should hear further in this connection later on today. But, as it stands now, I have made a request to find out if it was available and whether we could have it. I believe the film was made originally by a private company; the C.B.C. has it and we thought it might be a good idea for us to have that film and perhaps arrange a showing of it to members of parliament and others who may be interested.



We then discussed the bill which is before us and I will come to that in a moment. There were some suggestions which the committee will have to consider.

Other matters discussed were the sitting hours, the printing of proceedings and evidence, authorization to sit while the house is sitting, hiring of a staff such as clerical and technical experts, who would help to evaluate the information made available to the committee and the obtaining of lists from the Department of Fisheries and the fisheries council of associations and people interested in Bill No. S-17, to obtain from university associations the names of experts in the field of international law and the scientific and technical aspects of the territorial waters.

The clerk of the committee has made contact with the Canadian universities foundation, who will send us pertinent information.

Now your subcommittee on agenda and procedure recommends that:

(1) That your committee request authorization to sit while the house is sitting.

(2) That your committee be authorized to hire technical and clerical personnel as it may deem necessary.

(3) That a definite number of copies in French and in English be established for the printing of proceedings and evidence.

(4) That a list of witnesses to appear before the committee be established.

(5) That a list be obtained from the Department of Fisheries and the fisheries council of the bodies and individuals interested in matters before the committee.

And then, as a suggestion, with respect to the days of regular meetings of the committee, that Monday morning, Tuesday morning and Friday morning might be considered.

Now, of course all these items will be discussed by the committee. I think you do understand that this is a business meeting to decide where we go from here. There will be no witnesses this morning. The witnesses who will be appearing before this committee will be decided upon by the committee itself. But, these are merely recommendations which the steering committee has made for the consideration of the members.

I wonder if we could start with item (1) in respect of obtaining authorization to sit while the house is sitting.

Mr. BASFORD: I so move.

Mr. McLEAN (*Charlotte*): I second the motion.

The CHAIRMAN: It has been moved by Mr. Basford and seconded by Mr. McLean that we seek authorization to sit while the house is sitting. Are there any comments on this motion?

Some hon. MEMBERS: Question.

Mr. HOWARD: Mr. Chairman, I have just my normal objection to sitting while the house is sitting. I know I will be a lone voice in this regard. However, I would like to have it registered that I do not agree with this course except only when absolutely necessary, and I do not think it is necessary to do this during the first meetings of the committee.

The CHAIRMAN: Your observations will be noted, Mr. Howard. Actually, I think this is largely a matter of routine in order to be prepared in the event such an emergency does arise. We may have witnesses from out of town or those who are here for only a short period of time and it might be desirable to sit while the house is sitting in order to hear them.



Mr. HOWARD: If we could approach it with the general understanding that it is used only to meet the convenience of witnesses, then it is agreeable.

Mr. STEWART: No, I do not think we should put in that rider at all. I did not know that Mr. Howard has been so much influenced by the editorial board of the *Globe and Mail* that he could come to the view that we all had to be in the house at all times when the house is sitting. It seems to me that all the understanding we need is that the committee will not go out of its way to impinge upon the time of the house.

Mr. BARNETT: With respect to the last comment, from my knowledge of Mr. Howard, I am sure that his viewpoint was not developed from the *Globe and Mail*, but rather the reverse might be true.

Mr. WEBSTER: Let us have the question.

The CHAIRMAN: Those in favour? Those opposed? The motion is carried.

No. 2 is that this committee be authorized to hire technical and clerical personnel as it may deem necessary.

Mr. CROUSE: I so move.

The CHAIRMAN: It is moved by Mr. Crouse.

Mr. HOWARD: I second the motion.

The CHAIRMAN: And it is seconded by Mr. Howard that the committee shall have power to engage technical and clerical personnel as they deem necessary to evaluate the information available to the committee and to obtain a balanced analysis of that information, and that the said staff will be responsible and report to the committee. Is there any comment?

Mr. BASFORD: Let us have the question.

The CHAIRMAN: All those in favour?

The CLERK: Sixteen.

The CHAIRMAN: All those opposed? I declare the motion to be carried. Now may we have consideration of the definite number of copies of the proceedings of the committee to be printed in English and in French?

Mr. HOWARD: I think it was suggested in the steering committee that 1,000 be printed in English and 300 in French, and that this might be appropriate. This was only a general suggestion, without any recommendation as to the number.

The CHAIRMAN: That is right. This was discussed, with the possibility of 1,000 in English and 300 in French to begin with. This is something we would like to have opinions upon from the committee.

Mr. GROOS: What did they print the last time the committee met?

The CLERK: In 1962-1963 the committee did not print. In 1961 it was only for organizational purposes and there was no printing at all. The last time that the committee had any printing done was in 1959 when there were 750 copies in English and 200 in French printed.

Mr. BASFORD: I would go along with Mr. Howard's suggestion of 1,000 in English and 300 in French.

Mr. STEWART: I wonder if that would be enough. It is my understanding that this bill is of considerable interest to many people, because I expect it is one of the most important bills to come before this committee for some time. I believe especially that libraries and many private persons will want to have copies. I feel we should anticipate this and have a larger number prepared. I would like to hear from Mr. MacLean on this point.

Mr. MACLEAN (*Queens*): I feel that interest in this bill would be considerably wider than in anything this committee has taken up in recent years. I am thinking of interest arising in the diplomatic corps, and I think we should err



on the side of generosity rather than to have too few. I would agree that perhaps 1,000 and 300 are not enough. Perhaps we could go to 1,500 and 500, because when we are having printing done, the additional cost would not be much more to have additional copies, and it is far better to have enough than to be short.

The CHAIRMAN: Agreed. Moved by Mr. Howard and seconded by Mr. Basford that permission be sought to have printed 1,500 copies in English and 500 copies in French of the Minutes of Proceedings and Evidence. All those in favour? I declare the motion carried.

No. 4, that a list of witnesses to appear before the committee be established. I think here I might make the comment that the steering committee discussed the possibility of having the Secretary of State for External Affairs and the Minister of Fisheries appear, and they, of course, will be happy to do so. I mentioned this to them, and perhaps I might say at the same time that Mr. Martin would be available, in fact, both ministers would be available on Tuesday morning. If anything should happen that Mr. Martin is called away, Mr. Robichaud could be here.

Then we have had correspondence from some who were interested in appearing before the committee, and I shall ask the secretary to report to the committee on what he has received. I have given him a telegram which I received yesterday.

The CLERK: Mr. Chairman, we received a letter from Mr. G. F. Maclaren of the firm of Maclaren, Laidlaw & Corlett here in Ottawa. I wonder if members of the committee have also received a similar letter? It has to do with Bill No. S-17, and the lawyer asks for permission to appear here before the committee, because he represents nine international airlines as follows:

British Overseas Airways Corporation  
Scandinavian Airlines System  
Swissair  
Sabena  
KLM Royal Dutch Airlines  
Irish International Air Lines  
Pan American World Airways  
Trans World Airlines Inc.  
Flying Tigers

Mr. Maclaren asked to be heard before the committee. That is one letter. Then there was a telegram addressed to our Chairman from Vancouver, British Columbia, reading as follows:

Please advise tentative agenda order of procedure regarding Bill S-17. Our union requests opportunity present written submissions and verbal outline regarding this legislation and extent further amendments and action necessary adequately protect Canadian fishery resources against foreign fleets. Letter following. Adequate advance notice required enabling our union and other British Columbia fishermen organizations attend committee sessions.

United Fishermen & Allied  
Workers' Union.  
Per Homer Stevens,  
General  
Secretary-Treasurer.

The CHAIRMAN: These are the two requests; as I said, there was a suggestion from the steering committee about having the ministers here.

Mr. BASFORD: The steering committee is obtaining a list of fishery organizations?

The CHAIRMAN: No, it is not available yet, but it has been requested.



Mr. BASFORD: I suggest the steering committee should arrange meetings of the committee to hear the people we know are interested in coming, starting with the Secretary of State for External Affairs and the Minister of Fisheries. I think we can then safely assume that the fisheries council will wish to be heard, and the United Fishermen and Allied Workers and Mr. Maclaren. I suggest the committee should arrange meetings to hear these people and that the subcommittee obtain a list from the Department of Fisheries of organizations, who may then be notified that the committee is sitting and that they will be free to come to the meetings if they wish to be heard.

Mr. HOWARD: Apropos of what Mr. Basford has said, I think we should expound upon what was discussed in the steering committee. Perhaps I am misinterpreting what was decided or perhaps I am putting my own interpretation upon what was decided, but I understood the decision to be that we would divide the witnesses, as it were, into three groupings: first, ministerial; second, employees in the public service—and here I am thinking of perhaps Mr. Ozere and Dr. Needler and others in the Department of Fisheries, and people from external affairs although they are perhaps of less importance in this matter; and the third grouping would include others. By “others” I mean the fisheries council and fisheries unions and people included in the list of names that we would obtain from the Department of Fisheries. The list I understand would be available to members of the committee who may wish to add to it names or groups or organizations which may not be already included. The clerk would then advise all these people that the committee was meeting.

Mr. CYR: Mr. Chairman I think it would be better to hear the associations first and then officers of external affairs and fisheries. At the end we should then hear the two ministers.

Mr. STEWART: I would not agree with that suggestion, Mr. Chairman. Some of us may not be entirely familiar with the scheme of this legislation and, consequently, I should think it would be most useful to ask to have the legislation expounded here by the Secretary of State for External Affairs who, as we all know, is learned in matters pertaining to fishing—

Mr. HOWARD: And in matters pertaining to agriculture too!

Mr. STEWART: —and the minister. Perhaps some doubts will be raised in our minds by others who might appear here, and as a result we may wish to recall certain specific witnesses to see if indeed the doubts that had been raised would be expelled. I think that would be normal procedure.

Mr. BARNETT: I find myself in agreement with the suggestion made by Mr. Stewart on this order of business, but I would like to suggest that those individuals or organizations who have notified us of their desire to appear before the committee should receive information about the plans of the committee for meetings. If they are so informed, and if they wish to be here as observers when evidence is given by the minister or the department officials, they would have knowledge of what was being laid out. This, of course, might have some effect on the representations they might wish to make. I think it would be valuable for them in making their representations that they may do so in the light of the background of the information that was laid out.

The CHAIRMAN: Would anyone wish to comment on this discussion?

Mr. STEWART: I did not make a motion but I will do so if you would like, Mr. Chairman.

Mr. CASHIN: I will second the motion.

The CHAIRMAN: It is moved by Mr. Stewart and seconded by Mr. Cashin that the hon. Secretary of State for External Affairs and the hon. Minister of Fisheries be invited to appear before the committee as the first two witnesses, in that order. If the Secretary of State for External Affairs is not available at the next meeting we will hear the Minister of Fisheries.



Mr. MACLEAN (*Queens*): Perhaps we could also add to that motion the words "followed by technical experts from the departments concerned." I imagine we would like to hear something from them in order to obtain a complete picture.

Mr. BARNETT: Would it be in order to word the motion to say:

The committee requests that appropriate officials of the departments concerned follow on as witnesses after the ministers.

The CHAIRMAN: Then the motion is:

That the hon. Secretary of State for External Affairs and the hon. Minister of Fisheries be invited to appear before the committee as the first two witnesses, followed by experts of the departments concerned and other witnesses.

Mr. BASFORD: The purport of my remarks was that we are now in a position to go ahead and arrange meetings for the fisheries council and the fisheries and allied workers who, we know, wish to appear. I do not think we should hold up the hearings while we are waiting for this list from the department. We know of some people who wish to come here.

Mr. HOWARD: Would this not depend to a certain extent on what we discover about the appearance of employees in the public service from the Department of Fisheries? How many there will be and what length of time they will take it is hard to say at this stage. If we do not wait for that information we will find ourselves interspersing the representatives of the Fisheries Council of Canada, for example, if we set a time too far in advance.

Mr. BASFORD: Yes.

Mr. STEWART: Question, Mr. Chairman.

The CHAIRMAN: Will all those in favour of the motion please indicate.

Motion agreed to.

We have received requests from representatives of the airlines and the union from the west coast. They would like to know something about our schedule and plans. I think we should advise them of the progress we are making in order that they may at least make tentative plans, rather than giving them very short notice.

Mr. CASHIN: I suppose at some time in the very near future you or the steering committee, Mr. Chairman, or some such person would ascertain the numbers of the witnesses we might be hearing from the government service. Unless you have this information, it will be difficult to inform these other people of when they might expect to be called.

Mr. HOWARD: What Mr. Cashin has just said is what I understood—if I may say so with respect—you were going to do, Mr. Chairman. I understood you were to ascertain from the ministers concerned which officials of their departments they might be desirous of having appear.

The CHAIRMAN: I have done something about this. This has been discussed with them and it is understood that their officials will follow the ministers.

Mr. DANFORTH: I think we have gone as far as we can in this direction until we see the scope of the inquiry as a result of the meetings with the ministers. When the ministers have an opportunity to present the bill to us and to explain to us the ramifications of the bill, the committee will be able to form some judgment of the scope of the investigation. At the present time we have no indication whether the two ministers involved will be here for one meeting or five meetings.

The CHAIRMAN: May I have a motion that the subcommittee on agenda and procedure be authorized to prepare a list of witnesses to appear before the committee?



Mr. STEWART: I so move.

Mr. CROUSE: I second the motion.

The CHAIRMAN: Are there any comments?

Mr. STEWART: I do not know whether you intended to raise this question or not—and if you do plan to raise it at a later point in our meeting this morning I will stop when you alert me.

We may have a large number of witnesses other than ministerial and technical witnesses. It is conceivable that their presentations will take a long time. Would it be useful to the committee and to succinct presentation by these witnesses of their views and information if they were to be informed initially that it would be helpful if they were to send their briefs in advance, briefs which they could then expound upon here when the members of the committee presumably would have studied them?—I am not making a motion to that effect; I am merely posing that suggestion.

The CHAIRMAN: I think it can be done, Mr. Stewart. When we reply to their correspondence we can suggest this to them.

Mr. BASFORD: I will support that as long as it is only made as a suggestion that a written brief be submitted beforehand is helpful to the committee. It certainly should not be a requirement. I can think of one organization which is a native of British Columbia which may well want to appear here but which has very limited resources for preparing briefs and that sort of thing. This should not be a requirement, but I agree they should be told that it would be helpful to the members of the committee if a written brief is submitted.

The CHAIRMAN: It can be made as a suggestion to them but not as a requirement.

Is there any further comment? Would you care to put that as a motion?

Mr. CASHIN: I so move.

Mr. BARNETT: I second the motion.

The CHAIRMAN: Will those in favour of the motion please indicate. Contrary?

Motion agreed to.

May we now turn to the hours of sittings? I might say that we have practically first claim on this room, which is a new room that has just been opened. We will have to indicate the times when we do not want it rather than the times when we do, I think. The steering committee discussed the possibility of meeting on Monday mornings, Tuesday mornings and Friday mornings. I have ascertained from the Minister of External Affairs that he is available on Tuesday.

Mr. HOWARD: I understood it had been suggested that the committee should sit on Mondays, Wednesdays and Fridays.

The CHAIRMAN: Yes.

Mr. DUBÉ: Monday morning will be very difficult for many members who go home for the weekend and do not come back until ten or eleven in the morning. If we start at 9.30 on Monday morning—

Mr. HOWARD: Do you mean at ten or eleven o'clock on Tuesday morning?

Mr. DUBÉ: No, on Monday.

The CHAIRMAN: The reason we suggested these mornings was that there are committees sitting on every other day. I know the difficulty on Monday and, of course, there will be the occasional Monday when I will have to be away myself. However, if we arrange it in a different manner we conflict with other meetings.



Mr. DANFORTH: May I suggest this should be more or less flexible so that the steering committee can watch the program and see how it works. Until we actually try out the hours and days suggested we will have no idea whether or not we can maintain a quorum.

Mr. CROUSE: You mentioned that you have already ascertained that Mr. Martin will be available on Tuesday but we have now established that the meetings will be on Mondays, Wednesdays and Fridays. There seems to be a little inconsistency there.

Mr. CASHIN: We are going to tape the minister on Tuesday and play it back on Wednesday!

Mr. STEWART: I am wondering about meeting on both Mondays and Fridays. Some of us have constituencies with large sea coasts and at certain times of the year, particularly at this time of the year, in order to perform our duties as representatives here we have to be in our constituencies from time to time. I wonder if we really want to redress the balance created by some of the members from the central parts of Canada by being here on Monday and Friday ourselves. It seems to me we should concentrate our meetings either at the beginning or the end of the week rather than trying to range over the whole period uncovered by the Tuesday to Thursday club. Tuesdays, Wednesdays and Fridays would be perfectly all right. Surely we do not want to touch both ends of the spectrum.

Mr. BASFORD: As I understand the suggestion, it is to be left to the steering committee and now the steering committee has the benefit of the views of the committee and they should be able to arrange the meetings. I ask for the question on the motion.

Mr. HOWARD: If you want a personal preference may I say that in respect of Mr. Stewart's suggestion about bringing some balance to it I think it would be generally agreed it should be Tuesday, Thursday and Friday. I think that suggestion would be as good as any, Mr. Chairman, if that will help you toward obtaining a motion.

Mr. DANFORTH: Mr. Chairman, we are not the only committee concerned. I think the fact there are other committees sitting should be very seriously considered by the steering committee. I realize that if we do meet on Mondays and Fridays it will be inconvenient to some members from time to time but we must consider the business of the committee as our primary interest.

Mr. CYR: Mr. Chairman, if we have to sit on Monday I would suggest that we sit at least not before 11 or 12 o'clock.

Mr. CASHIN: Should we not leave this matter for the steering committee to decide?

Mr. HOWARD: The steering committee started it.

The CHAIRMAN: Actually, this is their recommendation but we wanted to hear the views of the members of the committee.

Mr. CASHIN: I agree with Dr. Stewart that meetings should not be held on both Mondays and Fridays so I would suggest that we refer it back.

The CHAIRMAN: I think the idea of flexibility might be a very good one for the time being. We will give further consideration to this. As was pointed out, there is a certain amount of inconsistency. First, I gave the recommendations of the steering committee and then I followed up by saying that Mr. Martin was available on Tuesday. This one incident itself, I think, suggests the problems with which we are faced.

Mr. DANFORTH: If I might state another problem, Mr. Chairman, there will be certain days in the week when it will be impossible for certain important witnesses to attend; I am thinking of witnesses who have to travel



long distances and I would hate to see established at this very early date definite meeting times when it may be necessary to change these days for the convenience of these other witnesses. Perhaps we would be wise to leave this in the hands of the steering committee at this time. However, I would urge you to take into consideration the interests of these people and the fact that other important meetings are taking place so that there will be the least conflict as possible between committees and so on. I would hate to see us embark on a schedule of this kind at the present time when we do not know how many witnesses will be coming, the number of meetings and so on. As I said, I think this should be left in the hands of the steering committee.

Mr. BARNETT: If we are going to refer this back to the steering committee I think they should try to come up with some fairly definite pattern in order that the members of the committee will know pretty well when we are going to meet in order that they can make other plans to fit in with the meetings of this committee. If we are too flexible we are going to be all over the place and some members will find that they have made certain plans which will be affected later on because of committee sittings.

Mr. HOWARD: Question.

The CHAIRMAN: I think probably with these suggestions in mind the steering committee can go to work on it in an endeavour to work out a schedule which can be fairly indicative for the benefit of those members who want to make other plans and yet it would be flexible enough to meet the requirements of those witnesses who have to come from long distances to appear before us. This might also pertain in respect of witnesses who may not be available at certain times

I think we should decide right away whether the committee would be willing to meet on Tuesday, if the ministers are available, as they have indicated they are.

Some hon. MEMBERS: Agreed.

The CHAIRMAN: I think it might be well if the committee expressed its opinion on one of the matters which I mentioned earlier. One of the problems discussed by the steering committee was the matter of hiring such technical and clerical staff, as the committee might deem to be appropriate. In this respect I would like Mr. Howard to mention some points which he brought up in connection with having analyses made of information brought before the committee.

Mr. HOWARD: My primary concern was that there should be some analysis from an economic point of view. For instance, if we had a witness here who advocates one certain course of action and another witness advocates a contrary course in respect of the bill or some part of it I am sure they will substantiate their views by saying that if we followed this particular course this will result in certain economics here or certain economic protection in another place, and if you do not, these will be the economic consequences because, what is involved here, is the exploitation of the fishery resource off our coasts which is exploited by nations in addition to Canada. We would like to have some approach from an economic and trade point of view, balance of payments, if you like, and resources of the sea, so that we will have a clearer idea of the full consequences of adopting the bill or proposing alterations to it in the light of information from someone that we employ who could inform us of the full implications of it. This is my primary concern.

The secondary one, perhaps, and I use this word for no particular reason, is perhaps in the field of international law, namely what is the relationship of Canada taking this course in respect of other nations of the world especially in view of our membership in the United Nations, the conferences on the law of the sea, as well as our participation in all the conventions that have been



developed in these areas, and what they mean in respect to our position. This is my reason for raising this in the first instance. I think it was Mr. Roussin, the clerk of the committee, who suggested the federation of universities, or whatever it is, might be able to provide us with a list of potentials from whom we could draw in the field of economics.

I am not so interested in biology as it relates to fish except so far as the migration of certain species of fish is concerned because, I think, that is somewhat incidental to the whole thing.

Mr. STEWART: May I ask Mr. Howard if he envisages these experts simply as appearing here to give expert testimony or does he envisage them as doing research beyond that which they would have to do to prepare to be witnesses?

Mr. HOWARD: Yes, I am referring to the last part of what you said.

Mr. STEWART: You envisage them as doing extensive research?

Mr. HOWARD: Well, research and analysis in respect of presentations that are made to the committee by technical people in government, independent witnesses, the fisheries council of Canada and so on. And, as a further example, I might suggest this group of lawyers representing the airlines, for argument sake, the United Fishermen and Allied Workers Union and like organizations in order that we could have what I think would be a more balanced analysis of this material than otherwise might be available. You see, it is my contention, and I think the steering committee generally agreed with this—Mr. MacLean is not here now but when he was minister of fisheries at one time he said this was so—that an employee in the public service of Canada—the word is civil servant, and I do not like this word—is there to serve, in the first instance, the government, and once government makes a policy decision I do not say the civil servant distorts the facts but he is there to sort of act as a buttress from a technical point of view for the policy decision of government, which is weighted on one side.

With all due respect to all of us, the members of the committee have only their own resources to attempt to delve into these sort of things, and this is why I made the suggestion in respect of some clerical and technical staff for the purpose of doing research work and other things with regard to analysing these presentations. We then could say to them: here are some things you can inquire into. This would be of great assistance to us and then I think the committee would be in a much better position to make a reasoned and logical judgment of the material presented to us.

Mr. STEWART: Mr. Chairman, I am in complete agreement with Mr. Howard. This kind of subject requires really the most studious attention and the best advice we can obtain. My difficulty at the moment is a purely procedural one. I am wondering what the traditions of our parent body, the House of Commons, are in respect of committees employing persons to do research for them.

Mr. CASHIN: Mr. Chairman, on that point may I say there is a very good precedent at the moment. The committee on consumer finance has, I believe, obtained the services of persons to do exactly the same sort of thing or a similar sort of thing as Mr. Howard has suggested.

Mr. STEWART: Mr. Chairman, we could have this clarified; perhaps you would investigate how far the committee properly can go in this connection without special order of the house.

Mr. DANFORTH: Mr. Chairman, may I suggest this is quite a new field, and I am sure Mr. Howard appreciates that. However, if that were the case, I fail to distinguish between a committee and a commission when, once you have a



reference, you begin to hire outside legal staff and so on to make recommendations and to report, to elaborate, investigate and draw out extra facts and procedures. If that were the case I think then we would be delving into the realm of the commission and our report then would be a commission report.

May I point out that there are some reservations in the steps being taken by the other committee and I think we should progress very, very slowly in this regard in view of the fact that we have not heard a single witness yet and we have no idea what we are delving into.

I am not going to oppose Mr. Howard in his suggestion because I am in the position of not knowing what we are going into. But, I think we are very premature in considering this procedure at this time because, as has been pointed out, this is a new field which could become quite involved. For example, you may have a conflict between three individuals in respect of their capability of performing a paid service to this committee.

As I said, I would suggest the steering committee proceed very slowly and be very careful in looking into this particular question.

Mr. CASHIN: On that point I concur with Mr. Howard in respect of the principle of doing this sort of thing. But, I think we can look at this in the light of individual committees. I do not think there is anything wrong with the principle of having this sort of assistance. Perhaps there might be something which would distinguish this committee from others. I am just raising this as something which you might consider.

Mr. BARNETT: It would appear to me that the situation with which we are going to be faced is a rather complex one from a technical point of view and will involve the putting of questions in respect of not only the fishery itself but the whole field of international law. And, if this is more or less a pioneering method so far as this committee work is concerned then I think it would be a valuable thing to experiment with, especially if we are going to delve into these matters which have been stated. However, I would presume that the house would have to concur in our recommendation in this respect. I cannot quite see the argument that if we proceed along these lines that we would, in effect, become a royal commission by our technique of operation.

Mr. DANFORTH: If I might answer the point which has been raised, Mr. Howard pointed out, and rightly so, that in the field of international law most of the members who sit on this committee will be at a disadvantage because of the technical nature of the subject and the training which would be required to understand all the ramifications of it. But, what position is this committee going to be in when we call before us departmental men whose very business it is to look into all aspects of international law for the purpose of setting up this bill for the best protection of Canada, and then this committee obtaining outside legal experts on international law for the purpose of pointing out flaws and loopholes in the very bill that our departmental men, who are supposed to be the best obtainable, have developed. I can see that we would really be on thin ice if we establish such a precedent. For example, in international law—and I use this only as an example—if we do get into a position where we do not understand and we are at cross purposes as a committee then we could invite the departmental lawyer in along with the other officials.

These are the men who made the preliminary surveys, studies and so on. It is all very well to say hire men to come in, men who would be able perhaps to protect the interest of this committee—and I do not want to put words into Mr. Howard's mouth. But, bearing in mind that if these men were hired in respect of some aspects they might have to spend months in preparation and go back over the basis of the work, the work which already



has been covered in the preliminary work on this bill and which has taken years to bring forward. I can see where we would get into all kinds of difficulties in such a course being taken.

I am not trying to suggest it should not be done; what I am trying to say, in hearing this proposition for the first time, is that I can foresee immense difficulties arising. I would not like the steering committee to throw the suggestion out but I would like it to give very serious consideration to it. I think the committee would be more or less bound by any decision the steering committee would make in this regard after very careful consideration.

Mr. CHATTERTON: Do you have in mind that we would engage such an expert or specialist in respect of certain questions raised in evidence from time to time or do you foresee this on a continuing basis?

Mr. HOWARD: I think on a continuing basis.

Mr. CHATTERTON: The idea has merit. I do not agree with my colleague.

Mr. DANFORTH: That is normal.

Mr. STEWART: Well, Mr. Chairman, I do not think we want to engage our own staff here. I think by doing so we would be deviating in the direction of a congressional government. I am quite willing to support the proposal if by the proposal is meant that the committee should invite or summons before it persons to give testimony on specific points. This might entail these persons doing preliminary work. But, I do not think we ought to have a continuing staff here paralleling the staff set up in the Department of External Affairs and the Department of Fisheries.

Mr. CHATTERTON: If the committee is not in favour of retaining such people on a continuing basis, perhaps in view of the evidence given, when a situation arises we might want to engage special experts to complete certain evidence.

Mr. CASHIN: On the matter of comparing this to the other committee when there was some disagreement on whether or not the other committee should proceed to hire technical advisers, I think the situation before this committee is somewhat different from the one facing the other committee. There they are investigating a situation which does not involve any previous work or any field or any particular branch of government that has already looked into such a matter, whereas in our case here perhaps we would be duplicating work already done. Therefore I think the situation is considerably different. So I think we ought to take a second look at the suggestion made by Mr. Howard. I certainly agree in principle with the idea of having the technical advice necessary, but I cannot make a general rule on it. However I think the other point is valid too, even the point that was made about their objecting to it in the other committee, when there were those who felt that we were heading in the direction of congressional government, in that particular committee, and I agreed that that was being done. But I think the situation there was very different from that which faces this committee.

Mr. CROUSE: I am inclined to agree with the comment made by Mr. Danforth that we should proceed very slowly on the suggestion made by Mr. Howard in the event that we did need technical assistance, because it is readily available to us from qualified people already within the department. Having said that I think the steering committee and this committee itself should give very careful thought to the purpose for which it was established before we start to duplicate services.

Mr. HOWARD: It may be quite true that there are qualified personnel in the various government departments. I myself, from the point of view of the fisheries department, have great respect for almost everybody I have had dealings with them. I think they are highly qualified people. But let me pass this one question to you and invite you to ask yourselves what Mr. Martin would likely answer. Suppose that the opinions of Mr. Martin, the Secretary



of State for External Affairs as given in the Senate committee and in the house on the introduction of this bill should be duplicated before this committee, and I think they will be. I do not think the situation has altered to the extent that he will be giving the committee more information. He will be reluctant to provide it to the committee. And the other thing is the list of geographic co-ordinates from which these points are to be drawn, or even one or two of the co-ordinates in the area of the coast, because their contention is that it might interfere with negotiations taking place between Canada and other countries.

It is possible I am sure to make inquiries and to use the words contained in the various conventions which developed out of the Geneva conference on the law of the sea, the international conference about the territorial seas and the provisions therein, and it is possible to ask Mr. Martin in a theoretical way if they would propose to follow a number of articles in one of those conventions on the law of the sea and apply them to a particular part of the coast, let us say, of British Columbia, and if so what would the result be so far as the geographic co-ordinates are concerned. I think Mr. Martin would not tell you. He would say that to do so might be prejudicial to their position. And if you pass that same question to Mr. Ozere, the deputy minister of fisheries, who is learned in international law and who is a lawyer himself, you cannot tell me that he would say anything different. He would say the same thing. But if it were someone associated with the committee, he would say in a theoretical sense that if we take the international conventions on the law of the sea and if they are interpreted as they have been used in other countries and apply them to Vancouver Island it would likely mean that the co-ordinates would go here and go there.

It would be most valuable information to the committee, just to have it. It is not a fact that they are where the co-ordinates are likely to be. But it is valuable to have that sort of information to know where the fishing and territorial zones are likely to be in that area, and what affect they will have on the operation which the United States fishermen engage in during their otter trawl operation, and their affect on the whole coast. That is the sort of analysis that we would like to obtain.

But we are not going to obtain it from public people in the public service, because they are trained not to disagree with but rather to buttress the position of the minister. It is to me a quite reasonable approach to take. What the subcommittee sought to do I think was to get this committee, which sets the general policy, to endorse the motion that we report to the house and ask for the right to hire technical and clerical personnel as it may deem necessary.

What we are doing at the moment is to ask permission to do it, just like asking for permission to sit while the house is sitting. That does not mean that we are going to do so. And so it is with the matter of staff. We are simply asking for permission to employ technical and clerical personnel. But as Mr. Crouse has suggested, we might go easy with it, and take care as to what we do as a second step, if later on we think it necessary and desirable to have additional staff. At the moment all we should do is to report to the house and ask for permission to do it, and approach it later on from the point of view of the actual employment of such people, and to see if there are qualified people available.

Mr. STEWART: There is some disagreement on what is meant by the word employ. Obviously some of us felt that it meant our seeking to hire persons to give expert advice with professional competence whereas Mr. Howard might merely mean the engagement of staff.

Mr. HOWARD: The motion said "engage".

Mr. STEWART: It would depend on what was meant.



Mr. CHATTERTON: The same thing arose in the external affairs committee when dealing with the Columbia River Treaty, when we had evidence given by experts. That evidence was completely qualified and supported by the briefs, but that evidence differed between one witness and another. It would be very difficult in government for a civil servant to give evidence which might prejudice the position of the government. If we had outside experts engaged to evaluate evidence given by various experts, it might be of value to the committee, should such a situation arise here.

Mr. DANFORTH: This is a different approach which we have to employ. I take it that it still remains that this committee is empowered to summon or call witnesses, and that we are covered by that power. If we run into a technical point, as pointed out by both these gentlemen, then the committee in its wisdom can determine upon a course of action. If it was felt that there was an expert anywhere capable of solving or expressing an expert opinion, or a specialist in any particular field, then this committee already has the power to summon such a person or a company, whoever it might be, as a witness to be questioned on this specific field. This is a far different course from hiring a staff for the purpose of analysis and summation and making recommendations. They are two different fields entirely.

Mr. BARNETT: There is one point on which I think we might all agree to start with: it is that no matter how technical or professionally qualified the people are within the employ of the government service, there are certain questions which they are honour bound not to answer if it might lead in a direction which varies from the policy decisions made by the government; and I think members of the committee who hold them in high regard in respect of their qualifications would feel honour bound not to question them. I think most of us have an appreciation of the position of the technically qualified people within the government departments and would not wish to pursue a line of questioning with them which would be embarrassing to them in the light of a particular situation.

I think then with a view to being able to explore the regime and technical knowledge we could pursue with them certain matters in which there would be great value in our having agreement, and that we could have advice from time to time at any rate if not continuously, where the person who might be advising us would not have any public responsibility, and whose utterances would not be considered to be statements or of the thinking of the government generally.

Mr. DANFORTH: If I may be allowed one more word, I do not wish to see any suggestion of a constructive nature, such as we have had, shelved by any means. I think this committee wants, as individuals, to be the most effective committee possible. May I suggest that since this is a hypothetical matter at the present time we do not deal with the subject at this time, and that it be left open to be dealt with if a particular incident should arise in the committee.

As has been pointed out by Mr. Howard and other individuals speaking on this matter, when we have a particular question in front of the steering committee, or in front of the committee as a whole, and when we are aware of the scope and the various aspects in relation to this specific institution, as a committee we would be in a much better position to assess the procedure to be followed at that time rather than now when we are looking at it in a purely hypothetical way, and being asked to express opinions.

Might I suggest that if a particular problem did arise in the committee my own opinion in this regard could be absolutely the reverse. So I fail to see how we can make any constructive approach to the matter at the present time.



Mr. CYR: I would like to second the motion of amendment as suggested by Mr. Danforth.

The CHAIRMAN: Perhaps we might rather consider it as being a recommendation to the steering committee for their consideration.

Mr. HOWARD: I do not want to become procedural about this, but I understood that you reported on behalf of the steering committee, and that the motion was endorsed to be included in our report.

Mr. DANFORTH: What motion is being referred to?

Mr. HOWARD: The second item that we dealt with: "that your committee be authorized to hire technical and clerical personnel as it may deem necessary".

Mr. DANFORTH: As to the report dealing with the power, I have no objection to that aspect of it.

The CHAIRMAN: No, it was the interpretation of it that I was referring to.

Mr. DANFORTH: I have no objection to it. I suggest that we do not take any formal position as to procedure on this aspect until the problem arises in the committee itself.

Mr. HOWARD: It was the understanding in moving it that it is the committee which does the engaging of these technical people.

Mr. DANFORTH: This was brought to the committee by the Chairman, as coming from the steering committee as a new proposition. You introduced it and you elaborated upon it, and we expressed our opinions on the basis of what you said. I suggested that we should go slow with this matter and take no action on it as a committee until such time as a particular problem arose in the committee. Then you would have an opportunity to point out specific instances and illustrate your proposition with concrete instances. This is my concrete approach to it.

Mr. BARNETT: The only suggestion which flows out of this motion is that we would proceed to secure for our information a list from the university foundation of people who might be qualified, should we wish or desire to engage them.

Mr. HOWARD: That is what I understood.

The CHAIRMAN: I think that has been pretty well covered. The motion was that the committee should have the power. This motion was moved by Mr. Crouse and seconded by Mr. Howard, "that this committee be authorized to hire technical and clerical personnel as it may deem necessary".

It would be merely asking the house to give the committee authority to do this if they so wished.

Mr. DANFORTH: I have no objections.

The CHAIRMAN: I thought that perhaps an elaboration of the discussion which took place in the steering committee should be brought out here.

Mr. DANFORTH: I have no objection to the committee receiving the power, but I think we should be very careful in how we proceed.

The CHAIRMAN: Thank you. Is there any other business?

Mr. HOWARD: I do not know if we fully concluded the question of obtaining a list from the department of fisheries of people we know who are interested in the various aspects of fisheries, and distributing that list so that all members of the committee would have access to it? Was this covered, and if not, would you mind including it?



The CHAIRMAN: Yes, I think we have already decided to request these lists, and as soon as we get them they will be mailed to each individual member of the committee. Then if he should notice that an organization in his area which is interested is not included in that list, he would let the secretary know of it right away.

Mr. HOWARD: I was wondering about the procedural part of it.

The CHAIRMAN: As soon as we have the list it will be mailed; as a matter of fact, as soon as we have a list, even before it is a complete one, it will be mailed to each individual member of the committee.

Mr. HOWARD: Then I move we adjourn.

The committee adjourned.

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TUESDAY, June 9, 1964.

The CHAIRMAN: Gentlemen, we have a quorum. First of all, I would like to give you the report of the second meeting of the subcommittee on agenda and procedure. The subcommittee met on Monday, June 8, 1964, under the chairmanship of myself with Messrs. Basford and MacLean (*Queens*) in attendance. After having considered the matters on the agenda, the subcommittee made the following recommendations:

Firstly, that the committee meet on Mondays from 10 a.m. until 1 p.m. and on Thursdays at 9.30 a.m.

Secondly, that the witnesses to appear before the committee should be as follows: Tuesday, June 9, the hon. Paul Martin and the hon. Hedard-J. Robichaud; on Thursday, provided the hon. Mr. Robichaud has not had an opportunity to speak today, he will appear again; on Monday, June 15, Mr. Homer Stevens of the United Fishermen and Allied Workers' Union, Vancouver; and on Monday, June 22, the fisheries council.

I might add that these are tentative dates in an effort to look forward as far as we could. I think I might point out, that a certain amount of flexibility, it was understood, would have to be considered by us, but we did wish to make tentative arrangements in respect of meetings so that we would be able to inform members and witnesses in advance.

Thirdly, there will be the appearance of other witnesses. Organizations recommended to the committee either by the fishermen's unions, the Department of Fisheries or the fisheries council will be decided upon by the subcommittee later on. The interested associations will be informed in writing of the sittings of the committee.

Mr. BARNETT: Has the subcommittee given any attention to the matter of appearances before the committee of departmental officers and technical people?

The CHAIRMAN: I believe this was incorporated in one of the motions made at the last meeting. If I recollect it correctly, the motion was to the effect that we hear the ministers, the officials of their departments, and other witnesses, and that we would deal with this matter from meeting to meeting. I now have the motion before me. It reads as follows:

That the hon. Secretary of State for External Affairs and the hon. Minister of Fisheries be invited to appear before the committee as the first two witnesses, followed by experts of the departments concerned, and other witnesses.



Mr. STEWART: I think perhaps the question was prompted by the tentative program which the Chair has suggested. I am wondering on what date the officials of the departments will be heard. It seems to me that we are moving on to persons from outside the public service.

The CHAIRMAN: I believe the thought behind this is that after we have heard the various witnesses we would call in officials for explanation and clarification. However, if the committee wishes to amend this procedure, it would be quite in order.

Mr. HOWARD: With respect, Mr. Chairman, I believe what you have just stated now is contrary to the thought of the steering committee, and what was decided at the last meeting; that is, that there should be an order in respect of the calling of witnesses, and that, firstly, they would be ministerial, and secondly, officials of the department. Then the word "others" was used to denote people from outside those two areas. I believe it was in that order the committee decided, and that it was not the intention to leave the departmental officials until some later time.

Mr. BASFORD: The departmental officials, of course, are available here in Ottawa. It is necessary that the steering committee and the main committee be able to outline an arrangement of hearings so that people from out of town will be given some notice with regard to when they may be heard. The desire of the steering committee was to give the outside organizations a definite date for their appearance rather than giving them only two days' notice to come from the east coast or the west coast.

Mr. BARNETT: This really is the reason I raised the matter in the first place. The tentative dates you suggested for the committee meetings and appearances, to me, did not seem to allow for any hearing of departmental officers and technical people, prior to having outside witnesses. It was my understanding that we at least would have an opportunity to ask questions on technical matters, perhaps in more detail than either of the ministers would like to give us in their presentations. If the ministers are going to give us all of the technical information as they go along, this might cover it sufficiently.

The CHAIRMAN: Does anyone else wish to make a comment in this matter?

Mr. MACLEAN (*Queens*): Mr. Chairman, I think it is essential that witnesses from a long distance away who wish to appear before this committee should be given a fixed date for their appearance as far ahead as possible. I think, perhaps, we would be able to arrive at some suitable time to hear officials of the departments and work them in since they will be available here in Ottawa on short notice.

Of course, we have no idea how long the evidence, which the two ministers might wish to give us, will be, but it should be possible to hear at least some of the officials before next Monday.

The CHAIRMAN: Thank you. I am informed that the officials will be available at any time. If it is the thought that next Monday is too early to have the United Fishermen and Allied Workers' Union, then I think we should delete them from this report; or perhaps we could make an effort after hearing Mr. Martin this morning, and Mr. Robichaud, to meet with officials of the department between now and next Monday.

Mr. McLEAN (*Charlotte*): Why not go ahead and see how we get along?

Mr. CYR: I think we should ask that the United Fishermen and Allied Workers' Union be here next Monday on the 15th day of June, and the fisheries council on the 21st day of June. I believe most of the members are in agreement on that.



Mr. HOWARD: Mr. Chairman, again may I say that the committee already has decided on a certain order in the appearance of witnesses. I do not see that we can follow any other course, but I do not wish to argue the point all over again.

The CHAIRMAN: We had a little difficulty in working out our schedule with the meetings of the other committees. I think we might go ahead on the understanding that after we hear the ministers, we will have the officials of the department. The problem now is to appoint a tentative date for Mr. Stevens.

Mr. BASFORD: I am moving adoption of the report of the subcommittee on agenda and procedure.

Mr. BÉCHARD: I second the motion.

Motion agreed to.

The CHAIRMAN: With us as witnesses this morning, we have the Secretary of State for External Affairs and the Minister of Fisheries. The first item before the committee is consideration of Bill No. S-17, an act respecting the territorial sea and fishing zones of Canada.

I now call clause 1 and ask the Secretary of State for External Affairs to make a statement.

On clause 1—*Short title.*

This act may be cited as the Territorial Sea and Fishing Zones Act.

Hon. PAUL MARTIN (*Secretary of State for External Affairs*): Thank you, Mr. Chairman and gentlemen. I would like to make a few general comments about the bill which is an act respecting the territorial sea and fishing zones, and make some suggestions, perhaps, for the committee.

As I said in the house, I believe that this committee can perform a very useful function in examining the various aspects of this bill. I shall be glad to answer any questions which members may have concerning the bill and, of course, officers of the Department of External Affairs are at the disposal of this committee for any inquiries which members may wish to make of them.

My colleague, the Minister of Fisheries, and the officials of his department, I know, will be equally happy to clarify any particular matters relating to their responsibility in this problem. And, of course, you are free to call witnesses from other departments of government. I am sure, when you discuss Part II of the bill, you will wish to have before you the appropriate officials from the Department of Transport, the Department of Fisheries, and other departments which are concerned with the amendments that are contemplated pursuant to the main purposes of this bill.

On introducing the bill in the house on May 20, I outlined the discussions with a number of countries with which we are carrying on negotiations, such as France, Portugal, Italy, Spain, Norway, Denmark and the United Kingdom. I also gave you the timetable that we had in mind for establishing the fishing zones and the straight baselines.

My colleague, the Minister of Fisheries, when this debate in the house concluded, dealt with a number of questions which had been raised during the debate. I thought he gave a very full explanation, but I am sure he, too, is disposed to supplement here anything that may have been said, or add anything that may not have been fully appreciated.

My responsibility for this matter does not have to do with the fisheries aspect as such; that is the responsibility of my colleague. My job is to carry on the negotiations with the other countries, in order to achieve what we have in mind in those negotiations. I believe it might be useful if I were to touch on a few points which already have been brought out and which seem to be agitating some hon. members. Shortly after the bill is passed by parliament, if that is done, it will be proclaimed, and at the moment a 12 mile



fishing zone limit will be established around our coasts. I cannot emphasize too clearly that this will be one of the immediate consequences. This legislation creates the fishing zones of Canada. This is the automatic, unconditional and immediate effect of the bill.

It seems to me there may have been some confusion about how a fishing zone can be established before we publish the straight baselines. The answer to that question is simple and clear. Clause 5 (3) of the bill provides that until such time as geographical co-ordinates of points have been listed by the governor in council baselines remain those which are now applicable.

What does this mean? I have said before that we do not have any official charts in Canada showing the existing baselines but there is no question that for a large part of our coast they follow the sinuosities of the coastline. There are a number of laws on our statute books which for the particular purpose of the act establish baselines following the coasts, bays, creeks and harbours of the coast, or refer in a general way to the Canadian coastline. Thus the fishing zone will in a large part be measured from the sinuosities of the coastline until the straight baselines themselves are published.

Another question which has been raised, and I think may again be raised during our discussions here is: why should the government ask parliament to approve this bill now, before agreements are reached with the countries affected by our action? The answer is again straightforward. In the absence of any possibility of achieving multilateral agreements on a 12 mile fishing zone which is the right and the desirable way, the government decided to proceed by way of unilateral action. I have already said that the previous administration did everything that it could by multilateral effort to bring about the agreement in this particular field, as did preceding governments. I have had a chance of examining the documentation of the previous conferences and it is only fair that I should make this statement. But we were unable, as a result of this effort to achieve multilateral agreement. In the month of February, 1963, the former administration made another effort which proved abortive. Unless we were prepared to wait for an indefinite period,—and I mean an indefinite period,—we would not be able to establish a 12 miles fishing zone. We either took the course that we have taken in this legislative action, or we did nothing.

I think it is important to realize that the government, and I suggest to the parliament of this country, have to bear in mind the interests not in one section but in all sections of Canada. It is only by bearing in mind the interests of all sections and primarily on our Atlantic and Pacific coasts, that we can take into account the desirable relationships that we want to have, not only with our United States neighbour, but with other countries as well. So if we had not taken, or did not propose to take unilateral action, as we see it we would have no 12-mile fishing zone whatsoever.

What this bill does is to provide a legal basis,—and this is important,—for the international achievement of our aims. The bill is thus bound to be a material factor, as both Mr. Robichaud and I have argued, in negotiations that we now have underway with certain countries.

I find it difficult to understand how it can be suggested that one could be in agreement with this bill but not with the legislation as such. It seems to me there is a contradiction in the terms of this position. To achieve the aims of this bill we must have negotiations. Those of us who are conducting these negotiations feel very strongly that to succeed in these negotiations, we must have this legislation. I should like to explain this.

The adoption of this bill is proof to the world of Canada's determination to take action, action that has been taken as a last resort only because we have been unable to get agreements on a multilateral basis. Approval of this bill will be a mandate which shows that Canada wants this action. Parliament will



be making clear beyond doubt, if it passes this legislation, what are its intentions and what are the wishes of the Canadian people.

I should just like to digress and point out that certain members, who I think made a valuable contribution to our discussions, mentioned the fact that the government now possesses the power to proclaim a fishing zone and does not need this legislation. In this connection someone referred to the provisions of the Coastal Fisheries Protection Act. We have examined this very carefully and we cannot agree with this contention. We have concluded that an adequate legislative basis does not exist under that act for this purpose, and that this legislation is therefore necessary.

I presume that what hon. members had in mind was section 2, the interpretation part of the act protecting the coastal fisheries. Section 2, (b) provides that "Canadian territorial water means any waters designated by any act of the parliament of Canada or by the governor in council as a territorial water of Canada, or any waters not so designated being within three marine miles of any of the coasts, bays, creeks or harbours of Canada and includes inland water of Canada." There is no doubt that under the act to protect the coastal fisheries, Canadian territorial water in Canadian law means any water so designated by any act of the parliament of Canada or by the governor in council. But what we are doing in this bill is not to designate any new width for the territorial sea. We are not touching the breadth of our territorial sea. We are leaving the territorial sea at three miles. What we are doing is to extend the fishing zone to 12 miles; 3 plus 9. There is no legislative authority for that in this country. Consequently if we are going to extend the fishing zone the only way we can do it is by the act that is now sought to be adopted in parliament.

With the bill on the territorial sea and fishing zones on the Canadian statute books we, the negotiators, feel that we will be in a better position to achieve satisfactory accommodation with countries with whom we are carrying on these negotiations. These countries will know that the new laws of Canada will affect their fishing operations. They will understand that it is in their interests to agree to mutually satisfactory arrangements.

Another question raised by several members was, how could they support the bill without having these specific baselines set out in full? Others have asked how they could support the bill without knowing now what agreements will be reached? I should have thought the answers to those questions were quite obvious. I am sure that everyone understands that it is not really possible to conduct negotiations in confidence and to discuss their contents while we are negotiating. No country, or negotiator, would ever accept such a position and, in any event, no one can tell what the results of negotiations will be. Certainly you cannot tell the whole world about your negotiation and hope that it will be successful. I fully recognize the desire of members to have a general idea of the broad basis upon which the Canadian negotiators have been operating up until now, both with regard to the drawing of the baselines and the agreements on fishing with various countries. This is why I dealt with the matter in some detail in a statement I made in the House of Commons.

Turning to the first question, and that is the question in respect of the baselines, both Mr. Robichaud and I have made clear that we are basing ourselves on the Fisheries Council brief of January 28, 1963. We are asking the countries with whom we have been negotiating to accept baselines which are, in broad measure—and I use that phrase "in broad measure"—based on the recommendations of the Fisheries Council. This is not to say that there are no specific differences between our negotiating position and the recommendations of the Fisheries Council, but it does give a general indication of the position of Canada in these negotiations and discussions.



If the report of the Fisheries Council is examined as a whole, it will be seen that so far as the method by which we are seeking to achieve these results is concerned, that is to say so far as the conduct of our negotiations is concerned, the government is once again proceeding in a manner similar to the approach recommended by the Council.

The suggestion that the geographical co-ordinates should be set out in this bill would, in our judgment, be unwise. We would thus be enacting these co-ordinates as general legislation and they would become at once, if the bill was passed, part of the laws of Canada. They would become, in a sense, immutable and we would be presenting countries with which we are negotiating with a *fait accompli*. In these circumstances, I do not think it would be any exaggeration to say that there would be very little for us to negotiate about, because this is the very heart of the negotiation.

There is another reason why it is unwise to set out the co-ordinate points in this bill. What is involved is not only the straight baseline system, but our jurisdiction over various large and important bodies of water to which we claim a proprietary interest.

It would be a mistake and I think a serious mistake to assume that the implications of our action are restricted to fishing. There are other vital problems involved, including problems of security. What is involved in drawing straight baselines across these waters is not only the right to fish in them, but our sovereignty over them. This is no inconsequential advantage. It raises a number of considerations which can have a bearing on the interests of other countries as well.

I must say frankly that I had not thought that it would be in the public interest to discuss the nature of the considerations to which I have just referred. They are broad and they are of great consequence. They highlight the danger of presenting other countries with an accomplished fact. We are concerned as a government that by so doing, we would weaken and in fact seriously prejudice the success of our efforts. Premature action would be very damaging. I do not think I need elaborate on this self-evident fact.

I have the impression that some members, from what they have said, think that the way Canada is now going about drawing straight baselines is rather unusual or exceptional. This is not the case. An examination of what other countries have done will reveal that the establishment of the straight baseline principle is an executive act. It does not cease to be an executive act as far as Canada is concerned at the present time. What we are seeking is authority or rather, support, for this executive act by the legislation that we are asking parliament to approve.

I should like to illustrate what other countries, that have recently proclaimed fishing zones, have done in the establishment of straight baselines. In 1958, Iceland established a 12 mile fishing zone. Norway did so in 1961 and South Africa and Turkey subsequently took similar action. A few days ago the British government, pursuant to the agreement reached at the European fisheries conference in London earlier this year, introduced a bill in the House of Commons creating a 12 mile fishing zone. Every case, of course, has to be examined in regard to the particulars and the particular situation. The action of every country has to be related to its constitution and practice. I think a study of the approach of other countries will prove very interesting.

First of all let us look at Norway. By act of March 24, 1961 the Norwegian parliament adopted a fishing provision. Quoting from that act it states:

The fishery limit outside Norway shall run at a distance of 12 nautical miles outside of and parallel to baselines—

These are the significant words:

—at any time determined by the King.



While most of the baselines were established years before by royal decree in Norway, it is a fact that the Norwegian legislation specifically leaves the delineation of the lines to the crown. I would point out that while there were negotiations involved in the Norwegian situation, the negotiations certainly were not as detailed as in the case of Canada at the present time. Nevertheless, the delineation of the straight baselines was a matter that was left to the crown of Norway.

The legislative base for the Icelandic 12 mile fishing limit and straight baselines was established in an act of 1948 which gave the minister of fisheries authority to draw straight baselines within the limits of the Icelandic continental shelf and proclaimed the fishing zone.

Under regulations issued on June 30, 1958, the minister of fisheries provided for a 12-mile fishing zone drawn from specific baselines listed in the regulations. And so, in this case too, the baselines were not enacted by the parliament of Iceland but were provided for by the minister of fisheries under the general authority given to him by the parliament of Iceland.

South Africa, by act No. 87 of June 29, 1963, provided for a six mile territorial sea and a further six mile fishing zone. Section 6 of the South African bill says, and I quote:

In determination of the extent of the territorial waters of the republic referred to in section 2 of the bill, the rules contained in the convention on the territorial sea and contiguous zone signed at Geneva on April 29, 1958, shall apply.

While we have not yet received the official text of the legislation enacted by Turkey or the British bill, nevertheless it appears that the Turkish act contains a general article providing for the drawing of the headland to headland rule.

So far as Britain is concerned, members of the committee will recall that agreement was reached at the European fisheries conference at London earlier this year whereby the European countries concerned agreed that those countries which fished for a period of time in the six to twelve mile coastal areas could continue to fish in the outer six mile belt in the future. According to the bill now introduced, the fishing zone is drawn from baselines which are not contained or specifically defined in the act, just as in our case.

While I am discussing this subject of straight baselines, I would like to refer to a point raised during the second reading concerning the effect of straight baselines on international air traffic routes. It was suggested that as clause 5 of the bill is now worded, any future government could draw baselines so far out—the example was given of Sable island—as to interfere with air traffic routes. On this point I think it might be useful if I were to refer to a paragraph in my remarks to the house on May 20, on introducing this bill for second reading, when I said:

These straight baselines will be drawn in accordance with international law, on the basis of the decision of the international court of justice in the Anglo-Norwegian fisheries case and of the Geneva convention on the territorial sea and contiguous zones and taking into account the Canadian historic interests in the bodies of water off our coasts.

Thus it is clear that the straight baselines will be drawn in accordance with international law, and Canada, as a member of the international community of nations, is bound by the obligations and rules of international law. This is true of the present government and it will be true of future governments. There are rules laid down in international law and in the Geneva convention on territorial sea and contiguous zone which define the concept of straight baselines and its application. Surely this is an answer to anyone who raised the spectre of lawless



action on the part of future Canadian governments. We do not propose to draw baselines so as to enclose the areas of water between the mainland of Canada and Sable island. I have no doubt that future governments of Canada will act in accordance with the law of nations.

Now, finally, there is the question of our negotiations on the fishing zones of Canada. Several members have asked about the nature of agreements Canada would be entering into with countries fishing off our coasts. Although I cannot indicate the state of negotiations, I can make clear once again what is the basis of our talks and what are our expectations. This will give a general insight into what we hope to achieve by these negotiations in so far as fishing zones are concerned.

First, those countries which do not now fish or have just begun to fish in the 12 mile zone or in waters enclosed by our straight baselines, will no longer be able to come into these waters under Canadian law. This is most important as there are major fishing countries which are not now in a position to claim so-called traditional fishing rights, and if we delayed, this situation could change. I am sure that when Mr. Robichaud and his officials are before you they will be able to expand on this very important subject

Second, with regard to those countries which have fished in the waters concerned over a period of many years—Portugal, Spain, Italy, Britain, Norway and Denmark—the basis of our proposals is the possibility of allowing a period of time for adjusting their fishing operations so their fishermen do not suffer any undue economic loss. Under such arrangements, fishing by these countries would continue for a period of time subject to non-discriminatory Canadian regulations, but it would then cease, and the countries concerned would no longer be able to fish in the 12-mile fishing zone.

Third, we have made it clear that so far as the United States and France are concerned, these countries which possess treaty rights to fish off our shores will be allowed to fish in those areas where they have fished before, subject to agreed arrangements and regulations for the protection of the fisheries concerned. I regard as highly significant the question that was asked in the house by Mr. Crouse about the danger of retaliation by the United States. This was and continues to be a very important point. The answer I gave was that we did not expect retaliation and that its position is predicated largely on the attitude we have taken with regard to this matter and the position of the United States.

Mr. Chairman, this is the situation briefly at the present time. The aims and purposes of this bill are common, I think, to all political groups in Canada. We feel that we must not delay this legislation because to do so would seriously weaken our negotiations. The government cannot move faster and establish baselines now for this would freeze our position; it would weaken our chances for successful negotiations; and it would, in my judgment, invite rejection of our efforts. We are convinced that the course we have taken is the only course that we could have taken. I believe that this bill will greatly assist us in the negotiations that are underway and will be resumed in the month of July.

Mr. HOWARD: May I pose a question to Mr. Martin?

The CHAIRMAN: I was going to ask whether it would be the wish of the committee that Mr. Martin be followed by Mr. Robichaud, or whether they wish to start questioning the minister now.

Mr. CHATTERTON: May I suggest that we could question the minister now so that he could leave afterwards?

Mr. MARTIN (*Essex East*): I will have to go to a cabinet meeting at 11.30, but I am free until that time, and I would of course be pleased to come back later on.

The CHAIRMAN: That settles this question.



Mr. HOWARD: Mr. Martin indicated that shortly after this bill passes parliament the section of it relating to the fisheries zone will be proclaimed. Could he be a bit more specific on what is "shortly"?

Mr. MARTIN (*Essex East*): There will be no delay.

Mr. HOWARD: Does the proclamation of that section of it hinge upon any current discussions or negotiations with other nations?

Mr. MARTIN (*Essex East*): No.

Mr. HOWARD: Then it could be the next day?

Mr. MARTIN (*Essex East*): I do not say it will be the next day, but there will be no delay.

Mr. HOWARD: Then there will be a period of time before the straight baselines are drawn because those depend upon negotiations?

Mr. MARTIN (*Essex East*): Of course.

Mr. HOWARD: Mr. Stewart said in the house, and again I will not quote his exact words, that this twelve mile fishing zone that would come into effect immediately, or shortly after the bill passes the house, would not be enforced. Have you any comment to make on that?

Mr. MARTIN (*Essex East*): There may be certain areas where we would not enforce it until such time as the negotiations had been completed. That is right.

Mr. HOWARD: I do not want to argue the point, but I think it is a silly way to approach statutory law, to enact it and say you are not going to enforce it.

Mr. MARTIN (*Essex East*): I do not want to argue with your choice of adjectives either, because you have a special use of adjectives; I always find it a bit unique, if you do not mind my saying it.

Mr. HOWARD: May I say that the feeling is mutual, and goes far beyond the use of adjectives, but all other words and phrases in English.

Mr. MARTIN (*Essex East*): My point is that mine are less abusive.

Mr. HOWARD: You indicated this bill does not touch territorial waters, that they will remain at three miles. However, does it not in fact touch them because of the difference in the sinuosities of the coast?

Mr. MARTIN (*Essex East*): It touches them in that sense, but it does not touch the width of the territorial sea as such.

Mr. HOWARD: What I am getting at is that it will touch them when the baseline is drawn on the west coast in such a way as to enclose Queen Charlotte sound, Hecate straits and the Dixon entrance.

Mr. MARTIN (*Essex East*): We are not dealing in this bill with the territorial sea. The territorial sea stays at three miles. What we are doing is extending the fishing zone to twelve miles. We had at one time agreed to a different formula at Geneva, only because the former government—and I think quite rightly so—felt this was the only way by which it might get some agreement.

Mr. HOWARD: You made reference to an international convention on territorial seas, that arose out of the Geneva conference, referring to the territorial waters and contiguous zones, or something of that sort. Has Canada adopted or ratified that convention?

Mr. MARTIN (*Essex East*): No.

Mr. HOWARD: I understood from what you said that the provisions of that would be used as a guide in drawing the baselines.

Mr. MARTIN (*Essex East*): I am not at liberty to answer that question in the way in which you put it, except to say that they are illustrative of international law.

Mr. HOWARD: You say you cannot or do not want to answer, or are not able to answer the question.



Mr. MARTIN (*Essex East*): I cannot answer the question for the reason I have given.

Mr. HOWARD: I wonder if you could tell us—you said that before, either in the Senate banking and commerce committee or in the house, I am not sure which—

Mr. MARTIN (*Essex East*): In the Senate banking and commerce committee.

Mr. HOWARD: You said that this territorial sea proposal for the three mile and the nine mile fishing zone would meet Canada's requirements. Could you in detail tell us what those requirements are?

Mr. MARTIN (*Essex East*): They will meet our requirements. If you ask me a specific question I will be glad to answer it. We are not changing the territorial sea. We feel that to extend the 12 mile fishing zone will meet our requirements.

Mr. HOWARD: What are our requirements?

Mr. MARTIN (*Essex East*): Any of our national interests. They are very broad of course. Our national interests will be served by the existing territorial sea with the full sovereignty that is attached to that on the part of Canada, and we would feel that extending the 12 mile fishing zone another nine miles from the territorial sea, giving sovereignty over the fishing rights, will meet our needs.

Mr. HOWARD: Would it meet our needs to a greater degree if our territorial sea were twelve miles out?

Mr. MARTIN (*Essex East*): No, it would cause us difficulty. It could interfere with navigation. It really is not necessary to meet our needs.

Mr. HOWARD: Would the original so-called six plus six formula, that is six miles territorial sea and six miles fishing zone, which Canada and the United States jointly sponsored at the Geneva conference, meet our needs to a greater degree?

Mr. MARTIN (*Essex East*): Not at all, but we were prepared to do that because it looked at the time as a possible way of getting greater voting support.

Mr. HOWARD: Was not Canada in favour of the twelve mile territorial sea?

Mr. MARTIN (*Essex East*): I am not aware of that.

Mr. HOWARD: And agreement with the six plus six formula was reached so as to present a unified front to the Geneva conference, was it not?

Mr. MARTIN (*Essex East*): I am not aware that we ever proposed the 12-mile territorial sea.

Mr. HOWARD: Could you tell the committee the following. There are three areas involved in this bill: one is what we would call inland waters, the other one is the territorial sea and the third one is the fishing zone. Could you tell me how Canadian law or how our sovereignty applies to each one of those zones, and in what way are they different?

Mr. MARTIN (*Essex East*): In the case of the territorial sea there is no limit on the jurisdiction of the nation. Its sovereign rights are complete, subject only to those agreements, formal or informal, that apply to all states for one reason or another. Sovereignty will apply to the 12-mile fishing zone only in so far as the fishing is concerned. Canada's claim to certain bodies of waters that we regard as internal may be regarded by other nations as high seas; our sovereignty will also apply according to Canadian law.

Mr. HOWARD: But Canada is completely sovereign over the territorial sea; that is considered to be an extension in fact of land for our purpose. Is this so also with the inland waters?

Mr. MARTIN (*Essex East*): Of course, but in the case of inland waters there may be contentions made by other countries on proprietary interests.



But in so far as the law of Canada is concerned, as I indicated, and our concept of sovereign rights, this applies to bodies which we would regard as internal waters even though they may not be so regarded by other countries.

Mr. HOWARD: Referring to the west coast with which I am more familiar, the same principle is applicable. Assuming, for argument's sake, that the baseline is drawn west of Vancouver island, to extend that to the Queen Charlotte, Hecate straits and Dixon entrance, which are very large bodies of salt water, if the baseline is drawn in that way and imposes on those waters, they will, so far as we are concerned, be inland waters.

Mr. MARTIN (*Essex East*): That will be the consequence.

Mr. HOWARD: And if some other nation contested that fact and said no, these are high seas, what happens?

Mr. MARTIN (*Essex East*): That would be their contention.

Mr. HOWARD: Is there any process of resolving that?

Mr. MARTIN (*Essex East*): There are many processes: one is by agreement, one is by surrender, one is by arbitration, another one might be by submission to the international court of justice.

Mr. HOWARD: We could make an agreement that in effect this is our inland water, but in so far as the country is concerned they have certain rights in here.

Mr. MARTIN (*Essex East*): Certainly.

Mr. HOWARD: And this, presumably, could be the case with the United States. If we respect their so-called historic fishing rights in that area, we could declare it as inland waters.

Mr. MARTIN (*Essex East*): When Mr. Robichaud answers your questions, you could ask him. But subject to that, I would say that it would definitely be in the Canadian interest to bear in mind the interests of the United States in these waters in order to do what Mr. Crouse, quite properly, asked in the house, that is take steps to avoid any retaliation.

Mr. HOWARD: But you are the negotiator with these other countries. I pose that as a possibility.

Mr. MARTIN (*Essex East*): As the negotiator I made the reply which I have.

Mr. HOWARD: On the possibility that we were to draw the baselines across Hecate strait, Queen Charlotte sound, and Dixon entrance, we could make an agreement, notwithstanding that we call them national waters, that they still will have rights in that area. Is this possible?

Mr. MARTIN: One of the inherent qualities of the sovereign power is that you can do anything; that would include making an arrangement with regard to another country in waters which we regard as our territory.

Mr. HOWARD: As inland waters?

Mr. MARTIN: Yes.

Mr. HOWARD: This is what I want to get at. It is possible to do this?

Mr. MARTIN: Of course.

Mr. HOWARD: Could you tell me why we did not proceed to take any action or any steps to negotiate with the other countries who have treaty rights—and these countries I think would be the United States and France?

Mr. MARTIN: Yes.

Mr. HOWARD: Why did we not approach them and negotiate, or did we approach them and say we would like to alter this treaty arrangement?

Mr. MARTIN: That is part of the negotiation that is underway, Mr. Howard.



Mr. HOWARD: You are negotiating a treaty?

Mr. MARTIN: I said that is part of the negotiation. I did not say that. I said it is part of the negotiation that is underway and I cannot give you an answer to your question because of that.

Mr. HOWARD: Are we to assume that we are in the process of trying to negotiate with regard to treaties—

Mr. MARTIN: I did not say that. I said the government has made clear—as did the Prime Minister at Hyannis Port, and as did Mr. Robichaud and myself—that we have agreed to respect the historic and treaty fishing rights of these two countries. The question you asked me was, why we were not negotiating out of these historic treaty rights with these two countries.

Mr. HOWARD: No; I did not make reference to historic rights at all. I only made reference to treaties. I asked whether Canada approached these countries initially with regard to altering those treaties, and if not, why we did not?

Mr. MARTIN: I said, because of our negotiations, that I cannot give you in public the information that you want.

Mr. HOWARD: Why did we not challenge them—

Mr. MARTIN: You are asking me the same question in another way.

Mr. HOWARD: You have not heard the question. I am talking about so-called historic fishing rights.

Mr. MARTIN: They are the same thing.

Mr. HOWARD: I do not wish to argue the point, but at one stage you said you did not and you would tell me why you did not take steps.

Mr. MARTIN: I said I did not believe it was in our negotiating interest.

Mr. HOWARD: You are not able or you will not say why Canada did not take steps to try to negotiate on these treaty rights and make some alterations in the treaties; and, on the other hand, you say in respect of the so-called historic fishing rights, we are negotiating—

Mr. MARTIN: In respect of these historic rights, I presume you are thinking of waters such as Queen Charlotte sound, Dixon entrance, and Hecate strait. I say you are making that assumption.

Mr. HOWARD: Reference has been made by yourself and by others to historic fishing rights from time to time.

Mr. MARTIN: Yes.

Mr. HOWARD: I want to follow that up and ask just what they were. Again, assume they exist for any area—although I do know the United States is fishing in those waters and they do so by virtue of what we could loosely call the historic fishing rights.

Mr. MARTIN: The attitude which a country might take—in this case, Canada—with regard to what you call historic fishing rights—and I am not agreeing or disagreeing to that for the reason I gave but am taking an objective position is that we might agree, assuming there were these historic rights, to allow the country to continue because we feel it would help us in the negotiation or in respect of possible situations that could affect Canada in waters over which the United States might in future wish to exercise sovereign rights. This could be a very important situation in those waters on the Pacific coast over which the United States might wish to exercise sovereign rights.

Mr. HOWARD: Would you tell the committee what are the treaty rights, and what are the rights existing under the treaty on all coasts?

Mr. MARTIN: On what body of water?

Mr. HOWARD: In all its aspects in so far as Canada's coasts are concerned.



Mr. MARTIN: This would take a long time. We can give that to you, but I would prefer that we take a separate day for that.

Mr. HOWARD: I might ask the Chairman whether it would be possible with regard to this phase of what are the treaty rights and the historic rights which exist so far as we know them, to have this depicted on a chart on the wall so that members of the committee could see what is involved so far as the geographical area is concerned. I would suggest this might be better than sort of an oral geographical explanation with which we may not all be familiar.

Mr. MARTIN: We will take a look at it and see. I think it is possible.

Mr. CHATTERTON: In the meantime, it might save time if a list could be prepared.

Mr. MARTIN: I could read, now, the conventions. There was the convention of commerce in 1818, the special agreement for submission of questions relating to this treaty to arbitration of 1909, the treaty of Washington of 1912, the convention between the United Kingdom and France respecting Newfoundland and West Central Africa of April 8, 1904, and so on. We will try to give you the bibliography, if that is what you want.

Mr. HOWARD: I think, for our purposes it would be helpful if we had a bibliography in documentary form of what is involved, plus the information on the charts, which would be most helpful to us in an appreciation of what is involved.

Mr. MARTIN: We will do something along that line.

Mr. BARNETT: I think this would be most useful because I believe most of us are aware, or at least it is my impression, that the treaty rights originally date from a treaty of 1883 between Great Britain and the United States. I think we should have a clear picture of what treaties currently are in effect between ourselves and the other two countries involved; in other words, so far as treaty rights are concerned—and I agree that the minister cannot give us all the details of the negotiations—I think at least we should have a picture of where we start.

Mr. MARTIN: We will prepare a memorandum for you. This is a very complicated business, but we will be very glad to do it. We will do our very best to see whether we can illustrate it as Mr. Howard suggests.

The CHAIRMAN: Thank you. Then it is understood that probably we will be able to have it in mimeographed form and in the form of a map for the wall.

Mr. HOWARD: Some of the other questions which I had wished to pose to Mr. Martin can be deferred because, to an extent, they hinge on what is shown by the chart and the mimeographed explanation of what the treaties are. However, before I leave the matter, I have some other questions. I do not wish to hog the meeting.

An hon. MEMBER: You are doing pretty well.

Mr. MACLEAN (*Queens*): Mr. Chairman, on a point of order, might I suggest that there be some rotation of questioners. Other members have questions which they would like to put to the witness, and I think it would only be fair and reasonable that there be a limitation on time for each member. In this way there would be a more even distribution of opportunities for questions. Later, of course, if there is time there always could be a second or even a third round of questions.

The CHAIRMAN: I will ask the members as much as possible to do what they can in an effort to give each of their colleagues an opportunity. After Mr. Howard I have Mr. Chatterton and Mr. Crouse, in that order.

Mr. HOWARD: With regard to the point of order raised by Mr. MacLean, I submit it is not a point of order, because unfortunately there are no rules of



this sort on which you can raise a point of order. There is the question of the propriety of considering everybody in the committee. From past experience I have found that one often gets left. I am not attempting in any way to shut out anyone else who may wish to participate in the questioning. I am quite sure Mr. MacLean and others are well able to take care of themselves in that regard. I will defer these other matters to a later time.

Mr. CHATTERTON: The minister said that a proclamation will follow shortly, and will not be dependent on negotiations.

Mr. MARTIN: With regard to the fishing zone.

Mr. CHATTERTON: With regard to the fishing zone only.

Mr. MARTIN: Yes. The straight baselines matter now is the essence of the negotiation. When this act is passed, we will proclaim that portion dealing with the 12 mile fishing zone.

Mr. CHATTERTON: What clauses will be subject to proclamation?

Mr. MARTIN: The whole bill is subject to proclamation. If you look at section 13, the final section of the bill, you will see that it states:

This act or any provision thereof shall come into force on a day or days to be fixed by proclamation of the governor in council.

We shall proclaim section 4 of this bill after the bill comes into being.

Mr. CHATTERTON: Without any further negotiation?

Mr. MARTIN: Oh, yes. The establishment of the fishing zone has nothing to do with the negotiations at all. The establishment of the straight baselines as compared to the present baselines is the subject of negotiations.

Mr. CHATTERTON: If the whole bill is proclaimed immediately following approval by parliament—

Mr. MARTIN: The whole bill will not be proclaimed.

Mr. CHATTERTON: Let us say the straight baselines will not apply until the co-ordinates are made an order in council.

Mr. MARTIN: We will be proclaiming section 4 of the bill which establishes the fishing zone. That is the part that will be immediately proclaimed. When this bill becomes law—when it has passed both houses of parliament—this article will be proclaimed, and we will have established in law the 12 mile fishing zone in Canada.

Mr. CHATTERTON: The balance of the bill will not take effect until after negotiations in respect of the co-ordinates, the historic rights, and so on?

Mr. MARTIN: Yes.

Mr. CHATTERTON: You did not mention Japan and Russia. Do I take it from that they are not considered to have historic or traditional rights?

Mr. MARTIN: That is right. That does not mean to say they do not have interests.

Mr. HOWARD: Have they claimed any interests?

Mr. MARTIN: No.

Mr. CROUSE: Mr. Chairman, in his remarks the minister made the statement that the United States and France have treaty rights and are allowed to fish in those areas where they have fished before. As an easterner I find no fault with that statement, because just as the west is becoming known as the breadbasket of the world, in the east we hope to be known as the fishbasket of the world and must sell three quarters of our catch in the United States market.

As the minister knows, the announcement of the proclamation of this bill into law will not have any great effect at the present time on the Canadian fishing industry, because I believe since 1915 we have had a self-imposed 12



mile limit on our own Canadian fishing industry. The statement by the minister that the United States and France will fish in those areas where they have fished before prompts this question. Will we follow the declaration of the 12 mile limit & I am assuming it & it will become law and I hope this will happen in the near future. Will we, as Canadians, still fish beyond the 12 mile limit, while the United States and France fish in the nine mile fishing zone, or will we, as Canadians, fish with the United States and France in the nine mile fishing zone, while other countries which do not have treaty rights or historic fishing rights will fish beyond the 12 mile limit?

Mr. MARTIN (*Essex East*): With regard to matters which really involve fishing, I wonder whether you would bring those up before the Minister of Fisheries who is more competent to deal with them than I am.

Mr. CROUSE: Thank you, Mr. Martin.

Mr. MARTIN (*Essex East*): I am concerned, naturally, as a foreign minister, with the problem you raised about looking at the whole of the fishing problem on both coasts as a part of a single national problem; any action taken in one area could affect very vitally Canadian interests in the world.

Mr. CROUSE: Mr. Chairman, I am in accord with what has been done to date. The problems of the east coast and the west coast are vitally different, because on the east we sell three quarters of our catch to the United States' market, whereas on the west coast the bulk of the catch is sold in the United Kingdom market.

Mr. MARTIN (*Essex East*): I would think Mr. Robichaud, when his turn comes, would be very interested in pointing out the contrast there is in Canada in respect of marketing on the east coast and the west coast.

Mr. CROUSE: I shall pose my question to the Minister of Fisheries at a later time, Mr. Chairman. That is all I have at the moment.

Mr. STEWART: Mr. Chairman, when Mr. Crouse was speaking recently in the House of Commons he made a very succinct statement of a viewpoint which sometimes has been enunciated in the Atlantic provinces to the effect that we should not proceed with this matter too rapidly because it might affect the sale of a large portion of our fisheries products in the United States. I would like to ask the hon. Secretary of State for External Affairs whether the negotiations which have gone on to date have been such that they would convince him this fear is groundless.

Mr. MARTIN (*Essex East*): I know of no basis for it, although I recognize the importance of the question.

Mr. STEWART: Am I to understand there has been no suggestion of such a retaliation?

Mr. MARTIN (*Essex East*): That is right.

Mr. STEWART: Thank you, Mr. Chairman.

Mr. MACLEAN (*Queens*): Mr. Chairman, the minister in his statement said he felt this legislation was necessary at this time in order to strengthen the hand of the government in its negotiations. I think, perhaps, the contention that was put forward by some members when speaking on the bill on second reading was not fully understood. I believe the contention was that the power exists at the present time under the Coastal Fisheries Protection Act to delineate straight baselines and to proclaim certain bodies of water to be national waters by virtue of being inside the baselines concerned. I think that perhaps the minister does not agree with that point of view. I am not sure in that regard but it would seem to the non-legal mind at any rate that the power does exist under the Coastal Fisheries Protection Act.



Mr. MARTIN (*Essex East*): I am glad you raised that point. I think you were the member who raised it in the House of Commons. There is no doubt that under that act you can argue that there is power to extend the territorial sea. If you do extend the territorial sea—let us say to 12 miles—that would involve extending the fishing zone. I take it that is the point you have in mind. It is not in Canada's interest from the point of view of certain navigation interests, as well as other interests, I am advised, to extend the territorial sea. That being the case there is no power, except by the passage of a specific act, to extend the 12 mile fishing zone.

Mr. MACLEAN (*Queens*): I agree completely but the point is probably not well taken. My contention was that by this bill we are doing two distinct things. Firstly, we are proclaiming certain bodies of water as national waters and, secondly, introducing a straight baseline principle. The contention is that both of these things, which are the subject of most difficult negotiations, can be done with the powers provided by the Coastal Fisheries Protection Act. I fully agree that the Coastal Fisheries Protection Act does not contemplate or give any power in respect of proclaiming an exclusive fishing zone.

My contention is that it might be a more orderly procedure to continue negotiating until such time as these negotiations reach the position where straight baselines can be made public, and then at that time the government could come to parliament and state that negotiations have been carried on to the point where agreements have been reached that certain bodies of water will be national waters while certain other bodies of water will be national waters as well because they are behind the straight baselines, and our territorial sea will be three nautical miles beyond those baselines.

Thirdly, the government could come to parliament and ask for legislation to enable Canada to establish an exclusive fishing zone, as we are now being asked to do through this bill.

Mr. MARTIN (*Essex East*): I am sorry that I have to leave in five minutes to attend a cabinet meeting.

Mr. MACLEAN (*Queens*): I do not want to delay you.

Mr. MARTIN (*Essex East*): I can come back and deal with this at another time.

Mr. MACLEAN (*Queens*): I do not think it will be necessary for you to return to answer this suggestion. The Minister of Fisheries or some official can perhaps answer these questions. I do not insist on having answers by the Secretary of State for External Affairs.

Mr. MARTIN (*Essex East*): I should just like to comment briefly on this before I leave.

The position you take is an arguable one. It is one that we examined. This is a very difficult negotiation as you can very well understand with your experience as a minister of fisheries. It was after most careful consideration that we decided that in the negotiations which are continuing it would be of very great help to us to be able to say that this is not only what the government thinks and not only what the departments of external affairs and fisheries think, but it is the will of the parliament of Canada, and that the negotiations that we are now carrying on have this legislative base involving the establishment of a 12 mile fishing zone based upon the straight baseline system. I acknowledge the argument in the position you take but I can only point out that on the basis of the negotiations we are carrying on, we feel this will prove to be a very helpful thing for us to have.

I am sorry, Mr. Chairman, that I have to go right now but I will be glad to come back at any time.

Mr. MACLEAN (*Queens*): I must leave as well so the witness need not apologize to me.



Mr. MARTIN (*Essex East*): We are not going to the same place.

The CHAIRMAN: Would you take time to answer one question for Mr. McLean?

Mr. McLEAN (*Charlotte*): Is it not a fact that the government is rather anxious to establish a fishing zone at this time when we have Russian vessels coming into the bay of Fundy? Is it important to get this fishing zone established in order to prevent other nations from establishing historic fishing rights?

Mr. MARTIN (*Essex East*): There are some very important reasons for our establishing a 12 mile fishing zone in addition to those I have stated and that which you have now implied.

Mr. BASFORD: Is it possible for the minister to come back at three o'clock this afternoon in order that we may conclude our questions in this regard?

Mr. MARTIN (*Essex East*): No, because the German chancellor is here to-day. I can come back tomorrow morning at nine o'clock. I think you will find that Mr. Robichaud knows everything.

Will you excuse me if I now leave, Mr. Chairman?

The CHAIRMAN: Thank you very much, Mr. Martin.

Gentlemen before we proceed further I should like to point out that Mr. Martin's advisers have remained with us and that Mr. Robichaud, the Minister of Fisheries, could make his statement now if it is the wish of this committee and then at a future meeting we can call everyone back.

Some hon. MEMBERS: Agreed.

The CHAIRMAN: Perhaps we can call the officials from the departments as well as the ministers for our next meeting.

The Hon. H. J. ROBICHAUD (*Minister of Fisheries*): Thank you, Mr. Chairman.

Gentlemen, in view of the fact that the bill before the committee has been extensively debated and that several statements have now been made by my colleague, the Secretary of State for External Affairs, and by myself, I do not believe there is any need for me to add a great deal to what has already been said on the subject, particularly after the detailed statement made this morning by my colleague Mr. Martin.

I should, however, point out to the committee the urgency and necessity for giving as much protection as possible to our fisheries on both coasts. I am convinced, Mr. Chairman, that all members of this committee will agree with me on this point. Although some of the fishing grounds off our coasts have been frequented by fishermen of other countries for many years, in some cases for centuries, the technological developments in respect of fishing vessels and techniques have brought a significant number of new vessels, some from countries which have not been fishing off our coasts before, to our coasts, and this trend is likely to continue for some time because of the great demand for protein food in the world. This applies as well on the Atlantic as on the Pacific coast.

Today, as we all know, there are several countries which claim historic or customary fishing rights in the areas of the proposed extension of Canadian jurisdiction; that is, within our proposed 12 mile fishing zone. With each passing year new entrants, some with great fishing fleets, will make it more difficult to take action for the protection of our fisheries.

It must, therefore, be evident to everyone, and I would be the last one to claim otherwise, that the establishment of the 12 mile fishing zone and the straight baseline system will not by itself give complete protection to all the fisheries on which important sections of our coastal populations depend for a living. We still have to make treaties with other fishing nations for the



conservation and management of some of our most important fisheries and I am pleased to say at this time that Canada has taken a special initiative in this field. We take part in many international conventions, these conventions being only for one aim; conservation of our fisheries particularly in the high seas.

At the same time no one can deny that the establishment of a 12 mile fishing zone and a straight baseline system will in the future preserve for our coastal fishermen areas of fishing without interference from fishermen of many other countries and, in the meantime, will prevent the further influx of powerful fishing fleets from countries which have not heretofore fished off Canada's coasts.

Gentlemen, that is the limit of my statement at this time. I will be glad to answer any questions. I have the officials of my department available today and they will also answer questions asked by members of this committee.

Thank you, Mr. Chairman.

The CHAIRMAN: Thank you, Mr. Robichaud.

Mr. CHATTERTON: Mr. Chairman, the Secretary of State for External Affairs has said that immediately following the passage of this bill clause 4 will be proclaimed and we will then have a 12 mile fishing limit from the sinuosities of the coast. Does that mean that no country has any fishing rights within that 12 mile limit?

Mr. ROBICHAUD: I think I can clarify that statement, Mr. Chairman, by saying that the countries which have no historical fishing rights will automatically be excluded at once from this fishing zone. However, the countries with which we are now negotiating and which claim historic rights will have to be given consideration. That fact has been made clear. There are a number of countries who claim these historic rights which we hope will be phased out according to some established principle. It would not be logical for Canada, the moment we establish our fishing zone, to exclude automatically and at once such countries as Spain and Portugal, as well as others.

Mr. CHATTERTON: Those exceptions or concessions which might be made will be as a result of further negotiation?

Mr. ROBICHAUD: These will be made as a result of negotiations which are already under way and which we intend to continue at once.

Mr. CHATTERTON: But as soon as clause 4 is proclaimed, then, according to the law of Canada, no country will have any rights in respect of our 12 mile limit; is that right?

Mr. ROBICHAUD: Yes. No country will have any right to fish within our 12 mile limit, but the Minister of Fisheries under certain legislation has the authority to extend privileges or rights to those countries until such time as our negotiations have reached a conclusion.

Mr. CHATTERTON: Under what legislation has the minister that right?

Mr. ROBICHAUD: That right is given to the governor in council under the Coastal Fisheries Protection Act.

Mr. CHATTERTON: Is it intended that immediately after clause 4 has been proclaimed orders in council will be passed under the other act making exceptions in respect of countries which claim historic rights?

Mr. ROBICHAUD: I am not an expert in respect of procedure but I think that is what we will have to do, according to the existing act. I do not think we can follow any other course. That is my information.

Mr. CHATTERTON: Orders in council will be passed conceding those rights to the other countries which claim them, and in due course, after you have completed negotiations and defined the co-ordinates and rights to be granted to those countries, the rest of the act will be proclaimed; is that right?



Mr. ROBICHAUD: Yes, by order in council.

Mr. CHATTERTON: Will the other orders in council then be revoked?

Mr. ROBICHAUD: Yes.

Mr. CHATTERTON: That seems to be a round about way of doing this.

Mr. ROBICHAUD: This is the only logical way of doing it. If we did it otherwise it would mean that we automatically exclude all those countries who claim historic rights. While we may not be recognizing those rights at this time they will be determined as a result of negotiations.

Mr. CHATTERTON: The Secretary of State for External Affairs said that clause 4 would be proclaimed without any further negotiation shortly after the passage of this act. Why was the bill not drafted in such a way that its passage would make clause 4 and its provisions automatically effective? Why does clause 13 indicate that certain provisions of the bill will become effective only upon proclamation?

Mr. ROBICHAUD: Part III indicated that this act or any provision shall come into force on a day or days to be fixed by proclamation of the governor in council.

Mr. CHATTERTON: The previous witness stated that clause 4 would be proclaimed without any further negotiation.

Mr. ROBICHAUD: Yes, and the reason that clause 4 will be proclaimed without further negotiation is for the purpose of establishing fishing zones.

Perhaps this statement will answer a question asked earlier. While the government has authority to establish territorial seas, or territorial waters, the government has no authority to establish fishing zones unless it gets this authority through a bill such as the one before us at this time. It is our understanding that it is important to establish this fishing zone as soon as possible and to act immediately in order to prevent certain countries that, if I may use the expression, are on the eve of establishing historic rights in Canadian waters. These countries will be excluded at once and that will be the immediate effect of the passage of this bill.

Mr. CHATTERTON: It is obvious that I did not make my question clear. The Secretary of State for External Affairs said that clause 4 would be proclaimed immediately after the passage of this bill. No further negotiation will be required in order to proclaim section 4. My question is, why was this bill not so worded that on passage clause 4 would become effective immediately and that proclamation would only apply in respect of the other sections? Why was clause 4 also made subject to proclamation?

Mr. ROBICHAUD: Mr. Chairman, the entire bill is subject to proclamation.

Mr. CHATTERTON: Yes, but this is not usual. Very few acts become effective only after proclamation. That of course does happen but not very often.

Mr. ROBICHAUD: No act can come into force before proclamation, and that is exactly the situation in respect of this bill which comes into force on the date of proclamation.

Mr. HOWARD: Mr. Chairman, Mr. Robichaud and Mr. Martin have both said, to use Mr. Robichaud's words if I took them down correctly, that several countries are claiming historic fishing rights in the area of the proposed 12 mile fishing zone. It is doubtful even yet what the 12 mile fishing zone will embrace in so far as certain bodies of water are concerned, but can you tell us the names of the several countries which claim this historic fishing right in the area of the proposed fishing zone?

Mr. ROBICHAUD: I should like first to clarify the first part of your question by saying that countries are claiming historic rights outside of the present three mile limit. The countries which are claiming historic rights other than France



and the United States, which also have treaty rights, are Portugal, Spain, Norway, Denmark, the United Kingdom and Italy. Some of these countries are claiming rights in respect of different areas, and some of the claims are very limited while others are more extensive.

Mr. BARNETT: Did you include Denmark in your statement?

Mr. ROBICHAUD: Yes.

Mr. HOWARD: You also indicated that other countries, to use your phrase, are on the eve of establishing a position in respect of which they can make such a claim for so-called historic fishing rights. Can you give us the names of those countries?

Mr. ROBICHAUD: Some of the countries which I have just mentioned are on the eve of claiming certain historic rights in respect of certain types of fish. I should state as an example that Norway has for the last two or three years been fishing for beagles in the Gulf of St. Lawrence. If we allowed Norway to continue fishing in this variety for two more years, according to international acceptance, Norway would then be in a position to claim historic fishing rights for that particular variety of fish. In addition fishing fleets from other countries have been operating close to our shores in recent years, including those of Japan and the U.S.S.R.

Mr. HOWARD: I wonder, Mr. Chairman, if I could ask the following question. I think it would be helpful to the committee if we could get the names of these countries which have been given to us here and the area within which they are claiming historic fishing rights, as well as the fisheries involved in respect of the reference to Norway fishing for beagles. Could we get a listing of the countries that are, as Mr. Robichaud put it, on the eve of claiming these historic fishing rights, so as to discover what area they are involved in and what fisheries are involved?

Mr. ROBICHAUD: As much as we would like to be able to supply information, this is exactly what we are negotiating now. This is the matter which is being negotiated with those countries, and I do not think we can at this time divulge the details. I have given the names of the countries, and I can give the approximate areas, but to give in detail the exact areas and the amount of fish that is being caught by those countries, or the exact of their claims, would not be fair to the countries with whom we are now negotiating.

Mr. HOWARD: Mr. Chairman, is this information made public somewhere? I can understand—although I disagree with it to an extent—the reluctance on the part of the government to indicate what our position in the negotiations is, although I am sure we have made it clear to each of the countries, and I therefore cannot see much reason for that, but I can understand it in so far as that claim may relate to other countries than the one you may be negotiating with. However, I cannot understand reluctance to give information on what other countries have caught in areas within which they claim historic fishing rights.

Mr. ROBICHAUD: I can clarify my reply to some extent. This is the type of information with which we have asked those countries to supply us, and which we do not have as yet. We have a general knowledge of those countries operating in the proximity of our shores, and this is the type of information that we expect to obtain from them in detail during the second phase of our negotiations.

Mr. HOWARD: In fact, you do not know what this information is, and it is not a matter of your reluctance to provide it.

Mr. ROBICHAUD: We do not have it at this time.

Mr. HOWARD: Is it available from some countries?

Mr. ROBICHAUD: Not in detail.

Mr. HOWARD: Do you know the United States catch on the west coast?



Mr. ROBICHAUD: We do, to some extent.

Mr. HOWARD: There is an agency of the United States government which publishes this information in great detail by species and area, and the area involves the Hecate straits, the Dixon entrance, and so on. Could you provide this information?

Mr. ROBICHAUD: To some extent we have this information, and I think we could supply information that is publicly available at this time.

Mr. HOWARD: It would be helpful to the committee if we could get as much information as possible about what other countries are catching by species and in what areas, in areas in which we are interested, so that we can see just what is involved from an economic point of view and from the fishery conservation point of view.

Mr. ROBICHAUD: In this case, what we could supply would be only an estimate because we do not have those figures in detail for specific zones, say within twelve miles of certain shores, but if we cover a larger area, then I think we could provide quite an accurate estimate.

Mr. HOWARD: It would be helpful to the committee if you could do this so that we could appreciate what might be involved here.

There is another question which I would like to pose to you. I think your words again were, as I took them down, that the purpose of the bill is to provide as much protection as possible to our fisheries on both coasts, and with that principal thought I think everyone agrees. Could you tell us—and I will spell out the species of fish on the west coast, although I am not able to do this on the east coast—the extent of protection that will be provided under this bill to the salmon fishery on the west coast?

Mr. ROBICHAUD: Mr. Chairman, it would be rather difficult for me to give in detail the type of protection that this bill could provide to the salmon fishery. All members of this committee know that we already have certain restrictions, certain regulations and certain conservation measures affecting the salmon fishery on the west coast, and most of the salmon caught in inland waters, if I can use this expression, is being caught by our fishermen and the fishermen from the United States. Both groups of fishermen who are fishing in the same areas, in the same sections of the coast abide by existing regulations and I think I can say fairly that whatever regulations we have applied on that particular coast for that particular fishery have been accepted equally by both groups of fishermen, the Canadian and the United States fishermen.

Mr. HOWARD: What I am getting at, Mr. Chairman, is this: The west coast salmon—I believe you call them anadromous—is a fish which will not recognize the twelve mile limit or any other kind of limit; it is a fish that spawns in streams and gravel beds in our streams and then proceeds from there, at different periods in the year, depending on the species, out into the middle of the Pacific, thousands of miles away. Assuming that other nations want to do this, they can proceed up to our so called twelve mile fishing zone, wherever it might be, and wait for the salmon to come home, and scoop them up. If that were the case, and it could very well be with the expansion of high sea fisheries particularly by the Soviet union and by Japan, this bill would provide relatively little if any protection to the salmon fishery.

Mr. ROBICHAUD: I agree entirely with the statement just made, in so far as the salmon fisheries are affected, particularly on the high seas, and for this purpose as I mentioned in the few remarks which I made earlier, we have international conventions, and we must agree that in these conventions we have the full co-operation of our neighbour to the south. In the negotiations which have taken place, particularly in so far as the North Pacific



fisheries treaty is concerned, they have been just as firm as we have been ourselves, so that, this legislation cannot affect the legislation or the understanding or the conventional agreement which is being reached between Canada and the other countries for fishing on the high seas. The kind of protection that we will get from this particular legislation is applicable only in the proposed fishing zone.

Mr. HOWARD: What about halibut on the west coast?

Mr. ROBICHAUD: There again I think it is a well recognized fact that halibut fishing takes place inside of the proposed twelve mile fishing zone. In both cases it is carried on by our Canadian fishermen and by the United States fishermen. Statistics will show that a total catch within that limited area is about evenly divided between the United States and the Canadian fishermen, so that both have interest in these particular waters, and also our own Canadian fishermen would be affected if or when the United States were to decide to establish a twelve mile limit because we know that a certain quantity of our halibut are being caught in United States waters along the Alaskan coast.

Mr. HOWARD: You mean in the high seas along the Alaskan coast?

Mr. ROBICHAUD: In the waters along the Alaskan coast. The facts are—that we catch about the same amount of halibut in the United States waters as the United States fishermen catch in our Canadian waters.

Mr. BARNETT: Assuming both nations are operating within the twelve mile limit?

Mr. ROBICHAUD: It would then be fifty-fifty. While 90 per cent of the halibut catch, is caught outside of the proposed fishing zone 10 per cent only is caught within the twelve mile zone, and it is about evenly divided between the United States and Canadian fishermen.

Mr. HOWARD: What are the migrating habits of halibut north and south, or along the coastal areas? Do you know that?

Mr. ROBICHAUD: This is a scientific question with which I would not want to be involved and on which I do not wish to make a public statement. We know halibut do migrate; we know that large quantities are caught on the high seas, and we also know that negotiations are presently under way among Japan, the United States and Canada, in order to come to an agreement to continue the existing North Pacific fisheries treaty whose aim it is to protect this particular type of fishery as well as salmon fisheries.

Mr. HOWARD: Not too long ago your government agreed to relax or remove the abstention principle under this North Pacific treaty so that Japanese fishermen could fish halibut in the eastern Bering sea. What effect does that have upon our halibut fishery?

Mr. ROBICHAUD: Firstly, I want to say that by no means was the abstention principle removed, and I think we are now getting away from this particular bill which has to do with a certain twelve mile limit. We have now reached the high seas and we are discussing a principle which does not apply to this particular bill.

Mr. HOWARD: I wish very seriously to contend that proposition—and we discussed this the other day in the steering committee. I think there was general agreement with what I am about to say now, and that is that while the North Pacific fisheries treaty itself is not before us as a specific subject matter, nonetheless this bill, by the minister's own words, is designed to give as much protection as possible to our fisheries on both coasts. I submit we are entirely correct in looking at each fishery on each coast to determine the degree of protection which this bill might give to that fishery, and as a consequence, just as we talked about the migrating habits of salmon into the high seas and back in again, and possibly of foreign nations coming up to our twelve mile boundary



and catching homecoming salmon, we are likewise entitled to inquire into the migrating habits of all other fish on the west and on the east coasts so as to determine the degree of protection which might be given to that particular fishery. As a consequence we are entitled, I think, to inquire into the effects on those fisheries of operations under the North Pacific fisheries treaty or any other treaty, which incidentally the minister brought into the conversation himself.

Mr. ROBICHAUD: Mr. Chairman, on a point of order, if I may be allowed to say something further, the type of questions which are now being directed to me have to do directly with the North Pacific fisheries treaty which, it is true, I have mentioned in a reply to a question by the hon. member. I would say again that it is not proper to discuss in this committee the terms of the protocol of an international treaty which is presently under negotiation. Every member of this committee knows that we have had two meetings, and that a third meeting is proposed to take place in Ottawa early in September. I do not think it is proper to ask this particular question when we are discussing what is before us now, that is Bill S-17—an act respecting the territorial sea and fishing zones of Canada.

Mr. HOWARD: We are not concerned with discussing the negotiations on the North Pacific fisheries treaty or what has taken place so far with respect to that treaty. I think what we are discussing is a particular fishery and the degree to which that fishery might be protected by this bill before us. I submit that in following that course we are thoroughly entitled to inquire into all the aspects of a particular fishery so as to see what other forces may be impinging upon it, and thus potentially interfering with what we claim is the desire to protect that fishery as much as possible by this bill. That is what I am inquiring about.

Mr. BASFORD: Do I understand we are dealing with a bill which deals with the territorial sea and fishing zones? The NORPAC agreement, which I have not read for a while, has a clause specifically excluding from its operation territorial seas and fishing zones. Therefore, if we are to deal with NORPAC, we are dealing with an agreement which specifically excludes from its operation the bill and the subject matter before us. I think the minister's remarks are well taken, that to bring in the NORPAC agreement, which is specifically by its own terms excluded from this bill, is out of order.

Mr. HOWARD: What Mr. Basford has just said has really substantiated what I am maintaining. We have all the more reason to inquire into that fishery because, under the NORPAC treaty and under the protocol to it, it says the convention areas shall be the high seas of the Pacific ocean, which is everything out there.

The CHAIRMAN: Maybe, at this stage I might make an observation, and that is that we have no right to discuss NORPAC as such, but in so far as the twelve mile limit affects conservation and so on, perhaps there is an area there on which some discussion could take place. However, I wonder, as time is slipping by, and there will be an opportunity to come back to these questions with the minister and the officials of the department who would be available, if I could go on to Mr. Crouse and come back to you a little later, Mr. Howard?

Mr. CROUSE: Earlier I had directed a question to the Minister of External Affairs, and he suggested I refer it to the Minister of Fisheries. Since this is a conservation measure which will be costly to enforce we should have, I think, some assurance of the benefits that will accrue to Canadians, and from that premise I would like to pose my question. It deals with the present regulations as they apply to the Canadian fishing industry. As stated earlier, the passage of this legislation will in no way impose new restrictions on the



Canadian deep sea fishing fleet because we have been following a conservation course in fishing beyond the twelve miles of the Canadian coast since 1915, and so the enactment of this legislation will not impose any new restrictions on the Canadian deep sea fishing industry.

What I am wondering about is the benefits that the Canadian deep sea fishing industry may gain from this legislation, because unless there is something for them to gain, it is questionable just how far we should go along this course. I therefore pose this question to the minister. Will we, in the Canadian deep sea fishing industry, be permitted to fish in the new, so-called, nine mile fishing zone along with the United States and French fishermen who have treaty rights in that area, or will we still see the French and United States fishermen fishing in the zone between our three mile territorial sea and the nine mile fishing zone? Will they fish in that nine mile area while the Canadian deep sea fishing fleet will still be permitted to operate only beyond the twelve mile limit?

Mr. ROBICHAUD: Mr. Chairman, I fully recognize the interest of the question asked by Mr. Crouse, and I know that all members of this committee would want to make sure that there should not be any discrimination between the operation of the Canadian draggers and the foreign owned draggers, particularly those of France and the United States who are operating in Canadian waters under certain treaty rights as well as under historic rights.

For the information of the committee, I may state that discussions and negotiations have been underway for the last six months with the Atlantic provinces and Quebec, particularly with relation to the gulf of St. Lawrence, and the south shore of Nova Scotia. We hope to arrive at an agreement where we could justify the application of certain regulations under the Fisheries Act which would provide adequate protection in limited areas along those shores for the inshore fishermen, and at the same time open new areas where there will be no discrimination whatsoever between the operation of Canadian draggers and draggers operated by French and United States fishermen.

This matter still is under consideration. Our proposals in this regard will soon be submitted to the provinces for final approval, because we recognize the provinces have a real interest in this particular field in view of the heavy investments which they are making now to modernize their fishing fleets. Under the Fisheries Act I believe we will be able to amend the present regulations in order to give this particular protection. By providing such protection, particularly in the gulf of St. Lawrence, which is a large body of water, we will be taking action to help conservation, or to add to existing conservation measures at certain periods of the year.

Mr. CROUSE: Mr. Chairman, it becomes a question, then, of endeavouring to assist the inshore fishermen as well as providing equal rights to the offshore fishermen in the bays such as Chaleur bay and the bay of Fundy, St. Mary's bay and the minister mentioned the gulf of St. Lawrence. As I interpret his remarks, these bays still are under consideration as possible areas where only inshore fishermen using boats up to a limited length will be permitted to operate, while Canadian deep sea fishermen still will have to stay outside those areas. This would apply equally to United States and French fishermen?

Mr. ROBICHAUD: Definitely. It will apply to all foreign vessels and foreign fishermen. I may add that in our negotiations with all the countries involved, we have made it very clear to them that it was our intention to amend our existing regulations in order to provide such protection.

Mr. CROUSE: Thank you.

Mr. STEWART: Mr. Chairman, the minister mentioned two areas, the gulf of St. Lawrence, and I believe the southern shore of Nova Scotia. Am I correct in believing that you said the southern shore of Nova Scotia?



Mr. ROBICHAUD: Right.

Mr. STEWART: This would not include what we commonly refer to as the eastern shore?

Mr. ROBICHAUD: I think the eastern shore of Nova Scotia and the north shore pretty well covers the gulf of St. Lawrence area.

Mr. STEWART: I mean the area on the Atlantic shore east of Halifax. That is included?

Mr. ROBICHAUD: Yes; let us say from Cape Breton west.

Mr. STEWART: I understand from what you have said in response to Mr. Crouse that in your discussions with the provinces, and in your discussions with the United States and with France, your aim is to ensure that the regulations followed by the United States, French and Canadian draggers apply equally?

Mr. ROBICHAUD: Right.

Mr. STEWART: At the same time, zones will be established which will respect the rights of the inshore fishermen; is that right?

Mr. ROBICHAUD: In certain areas.

Mr. STEWART: How are you going to distinguish between the areas in which draggers will be allowed to come closer to the shores than the other areas where they will be kept well off to protect our inshore fishermen?

Mr. ROBICHAUD: As I have already said, we have made surveys in the last six months in co-operation with the provinces. Officials of the federal Department of Fisheries and the provincial department of fisheries have interviewed the industry and a number of fishermen. We are able to determine now in what areas such inshore fishing is being carried out on a full scale basis. Although at first it may seem to be complicated, we will try to cover all the different aspects of this particular fishery.

Mr. STEWART: When will these regulations be ready; will they be ready, for example, before this committee ceases to sit?

Mr. ROBICHAUD: No; it is doubtful that we would have them ready by that time, because I think it was only yesterday that we decided to forward our draft proposal to the provinces for further study. It is then our intention to meet with the representatives of the provinces to discuss this proposal further.

Mr. STEWART: There is a possibility in this way of defining shoreline in a way which the inshore fishery, especially, is protected, and in other areas possibilities are opened up by the present bill. I am sure this is of very great importance to the attitude of many members of this committee in respect of whether or not this bill should pass. I think we should have some assurance from the minister with regard to the type of protection our inshore fishery is going to have.

Mr. ROBICHAUD: Mr. Chairman, this bill will have no direct relation to this proposal.

Mr. STEWART: Except in so far as it relates the operations to countries having treaty rights.

Mr. ROBICHAUD: Right, because right now there is no such provision in the Fisheries Act; there is no such protection for our inshore fishermen outside of certain small bays, like St. Mary's bay, and a few bays like the bay of Chaleur, and others which are closed altogether to certain type of draggers. This particular regulation will have the effect of providing for inshore fisheries the type of protection which does not exist now.

Mr. STEWART: In other words, the inshore fishermen will be better protected in the situation which will be possible if this bill becomes a statute.



Mr. ROBICHAUD: Well, I would not say they will be better protected, or to what extent they will be better protected by this bill, but they certainly will be better protected by the amendments which we are proposing to the Fisheries Act.

Mr. STEWART: Consequent to this statute.

Mr. ROBICHAUD: It will be consequent; both measures will be related. However, this bill by itself will not have a direct effect on the proposals, except in so far as it affects the operation of foreign draggers.

Mr. CROUSE: Mr. Chairman, as I interpret it, it is entirely a conservation measure and it will conserve for the inshore fishermen the fisheries which up to this point have been fair game for any foreign fishing operator who chooses to go and get them. The only people to whom they were denied were deep sea Canadian fishermen who, as I say, have been carrying out conservation measures by fishing 12 miles off the shore ever since 1915.

Mr. STEWART: My point was that I would not wish the rights of our inshore fishermen to be jeopardized simply to gain an agreement with certain other countries in negotiations with regard to the drawing of certain baselines, and I assume the minister and the government are fully cognizant of this situation and will take care to guard it.

Mr. ROBICHAUD: What we are trying to do—and I think it has been expressed by Mr. Crouse—is that we are negotiating a treaty to exclude all large draggers, equally, Canadian and foreign, from all areas, at certain times of the year, where small boat or inshore fishing is being carried out on a large scale. I think this is what you had in mind. We have certain areas along our shores where there is intensive inshore fishing. What we are trying to do is to exclude dragger operations from those particular and limited areas.

Mr. BARNETT: I think the minister partially has answered the question I had in mind. The point I would like to have clarified in my thinking is whether the minister can say at this point that the effect of this bill, at least in so far as the 12 mile fishing zone is concerned, would be to eliminate any discriminatory provision so far as fishing by other than Canadian vessels is concerned.

Mr. ROBICHAUD: That is exactly what we are trying to do. We are trying to establish rules and regulations which will do away with this discrimination which does exist now in certain areas and which is detrimental to our own Canadian fishermen.

Mr. BARNETT: In the minister's opinion will the proclamation of this bill, which was referred to earlier by the Secretary of State for External Affairs, bring that situation into being?

Mr. ROBICHAUD: The proclamation of this bill will partially bring that situation into being but it will have to be followed up with certain amendments to our existing fisheries regulations, if we want it to be really effective.

Mr. BASFORD: I have another question dealing with the proclamation. The Secretary of State for External Affairs said that paragraph 4 would be proclaimed almost immediately after passage of this bill, or at least without delay. Why could paragraph 5 not be proclaimed without delay? It is simply enabling legislation.

Mr. ROBICHAUD: Mr. Chairman, I think that if I understood my colleague the Secretary of State for External Affairs correctly, he picked out clause 4 because it was the most important clause in this bill in that it establishes something which does not now exist, namely, a fishing zone. However, again I should like to emphasize the fact that the whole bill will come into effect or in force on proclamation. The only difference being that the co-ordinates will only be defined by order in council. The co-ordinates, which are mentioned in clause 5, will come into effect as orders in council are passed describing such co-ordinates.



Mr. BASFORD: Therefore, it seems to me that clause 5 could be proclaimed without delay because it is only enabling legislation allowing the governor in council to pass orders in council in this regard.

Mr. ROBICHAUD: The whole bill will be proclaimed, but in part III it states:

This act or any provision thereof shall come into force on a day or days to be fixed by proclamation of the governor in council.

The only difference here is that the governor in council, according to the terms of this bill, has the authority to describe the co-ordinates.

Mr. BASFORD: Yes. I have one further question.

The Secretary of State for External Affairs made reference to the fisheries council brief of January, 1963.

Mr. ROBICHAUD: Yes.

Mr. BASFORD: He said it was being used as a guide line for the Canadian position. I am wondering whether the minister's officials can produce a map of the Alaska coast showing the territorial seas drawn on the same guidelines, providing that the United States also follow similar guidelines?

Mr. ROBICHAUD: Mr. Chairman, that is a complicated question to answer. I am afraid it would be difficult to determine the position the United States may wish to take. I think anyone who follows the proposal presented to the government in January 1963 by the fisheries council and who has in front of him a chart or map showing the Prince of Wales Island and the Alaska coast area could determine what would happen if the United States took a similar position, if or when they decided to do so.

Mr. HOWARD: Mr. Chairman I noticed you looking at what I thought was the clock. Do you have any idea about our adjournment?

The CHAIRMAN: Thank you for raising this question. I should like to suggest to the members of this committee that, in view of our decision in respect of our hours of meeting today, and that we left our adjournment time for decision of this committee, if there is no objection, we sit until 12.30. I am in the hands of the members of this committee, but having arranged to meet at ten o'clock this morning it was my feeling that we should continue as long as the members of this committee desired to continue.

Mr. HOWARD: I move that we adjourn at 12.30.

Mr. TUCKER: I second that motion.

The CHAIRMAN: It has been moved by Mr. Howard, seconded by Mr. Tucker that we adjourn at 12.30.

Some hon. MEMBERS: Agreed.

Mr. BASFORD: When shall we meet again? I wondered whether the minister could be available this afternoon in order that we can continue questioning him?

Mr. ROBICHAUD: I am in the hands of the committee. I believe I can be available this afternoon.

Mr. STEWART: Mr. Chairman, I think there is great advantage to be gained by continuing our meeting while the ministers and their officials are with us so that we can get before us at one time as much information as possible in respect of the whole intent and plan of the legislation. I do not think we should have to go through a warming over operation every two or three days. I think there is great advantage to be gained at this time by meeting again this afternoon.

Mr. HOWARD: Mr. Chairman, I think there is also a certain advantage to be gained by not being overwhelmed and swamped with material and information. I am sure other members are making notes, and any attempt to



co-ordinate and understand all this information within a few hours is rather difficult. I myself would prefer not to meet this afternoon while the House of Commons is in session.

The CHAIRMAN: I think perhaps we should deal with the motion to adjourn first and then hear comments in respect of the time of our next meeting.

Mr. CROUSE: I think the committee on railways, canals and telegraph lines is meeting this afternoon and some of the members of this committee certainly are members of that committee.

The CHAIRMAN: That committee is meeting tomorrow morning.

Mr. BASFORD: We are all fishermen, not railway men.

The CHAIRMAN: All those in favour of Mr. Howard's motion to adjourn at 12.30 please indicate in the usual way?

Motion agreed to.

I declare the motion carried.

When shall we meet again?

Mr. HOWARD: Before we come to a decision in this regard, Mr. Chairman, I should like to indicate again that I would like Mr. Robichaud to provide this committee with that statistical information in respect of estimates and factual figures to which I referred earlier. When can that information in respect of the catches of other nations in the areas in which we are interested be supplied? There is certain additional statistical information I should like to obtain which I feel may have a bearing on our decision in respect of the time of our next meeting. May I indicate generally to the minister what I had in mind?

The CHAIRMAN: Yes.

Mr. HOWARD: I think the members of this committee should be concerned about the halibut catches in the proposed 12 mile fishing zone on the west coast, and I assume that zone will embrace Dixon entrance, Hecate strait, and Queen Charlotte sound.

Mr. ROBICHAUD: Yes, I think you are right.

Mr. HOWARD: The minister did indicate that 50 per cent of the halibut catch is made in the area to be bounded by the 12 mile fishing limit and 50 per cent in the gulf of Alaska. Is the catch divided in this respect approximately on a fifty-fifty basis?

Mr. ROBICHAUD: That is not quite what I said.

Mr. HOWARD: That is the information I should like to obtain. I feel that information will be helpful in our considerations.

What I would like to find out is what is the catch of halibut by United States fishermen in the twelve mile fishing zone as contemplated by the fisheries council brief, that is embracing the Hecate straits and the Dixon entrance? What is the Canadian catch in, say, the gulf of Alaska? I am also very interested in what the catch of halibut is outside this twelve mile area in the high seas? Who catches it, what nations? What is the catch of halibut by Japan in the eastern Bering sea? Has this any connection with halibut further south along our coast, because of the migration pattern of halibut?

I would also like to know the effect that this proposal will have with respect to the herring fishery—and especially that which was removed with the abstention clause in the treaty, namely on the west coast of Queen Charlotte—which is likely to be directly involved in this twelve mile zone. I would also like to know the actual or the estimated, if that is all we can obtain, catch by United States fishermen in Alaskan waters or in the area north of the international boundary that runs north of Queen Charlotte, that is the catch by United States fishermen in the Alaskan waters of what I would call our home-coming salmon. I would like to know this by species, such as the sockeye and



pink salmon, which are the most important ones. What is the catch of salmon that come to our streams and are prepared to spawn? What is the catch by United States fishermen of salmon which spawn in our waters that are bounded by Alaska—the names of the rivers escape me; there are a couple of them anyway—fish whose spawning ground is in British Columbia, and the mouths of the rivers are in Alaskan territory and therefore outside the conservation zone?

I think it would be valuable also to get some indication of what is the migrating habits of each fishery on the east coast so that we can assess to what extent each fishery is protected by this twelve mile fishing zone. This may require a fair amount of work.

Mr. McLEAN (*Charlotte*): It will take 25 or 30 years regarding the herring on the east coast.

Mr. HOWARD: All the department has to say is what we all know, that is that they will not be able to give us information on herring.

Mr. ROBICHAUD: I think this is quite a series of questions. I do not want to discount their importance. I am sure the officials of the department will be able to supply some information quite accurately, other information will be an estimate, and still other, particularly as it relates to specific areas, may not be available. However, we will provide, for the committee, as much information as we can on questions that have been asked relating to specific varieties of fish both on the Pacific and on the Atlantic coasts. To provide the answer to the series of questions put by Mr. Howard might take some time. I doubt whether we could have this information available before some time next week or maybe late this week. We will provide the committee with the answers to those questions as quickly as possible.

Mr. BARNETT: In the same connection, could we have some idea on when the information we requested earlier from the Department of External Affairs could be available?

The CHAIRMAN: You mean the existing treaties plus the map? Perhaps I could answer this question now, after having received information from Mr. Wershof, that the extracts from the treaties can be in the hands of the clerk of the committee by tomorrow. With respect to the map under discussion, he has to check with Mr. Martin on what is the nature of the map. We will follow that up.

With further reference to the matter of the time of the next meeting, whether we should meet this afternoon, I would like to hear comments.

Mr. HOWARD: Before we proceed, there is one other matter, that is that some department should concern itself, and the committee also I think, with the problem on the extent to which this will be applicable and protective and an exhibition of our sovereignty in the Arctic ocean and in that area. Certainly there is water up there and presumably it will have some effect, and we should concern ourselves with this.

Mr. ROBICHAUD: Maybe I can answer that question right away. You will notice this bill does not apply to the Arctic area at the present time.

Mr. HOWARD: It does not touch any area. It does not touch the Atlantic either, does it?

Mr. ROBICHAUD: It touches the whole outside coast of Newfoundland, from Hudson bay south. The bill does not specify it, but this bill is not meant at this time to have any effect on the Arctic area.

Mr. HOWARD: That is another failure.

Mr. STEWART: Do you mean in practical effect or in legal effect?

Mr. ROBICHAUD: Both.



Mr. CROUSE: On that point, where the geographical co-ordinates are not named, the points that Mr. Howard has raised could in effect be dealt with if not by your government then by some future government because the power to do so is embodied in the bill.

Mr. ROBICHAUD: That is right, but at this time there are no countries with whom we are negotiating who are concerned with that particular area. The countries with whom we have met so far have not shown any interest concerning the Arctic area because none of them had any fishing operation in those particular waters. However, this does not mean that under this bill, if or when our government decides to do so, it will not be able to negotiate with countries which are affected or which have interests in the Arctic ocean.

Mr. BASFORD: I would like to move that we sit at four o'clock this afternoon.

Mr. TUCKER: I second the motion.

The CHAIRMAN: What is the feeling of the committee?

Mr. HOWARD: I want to object to it. I am wondering what we are going to accomplish.

Mr. BASFORD: I presume we do not appear to be finished with the first round of questioning, and therefore we should proceed with that. What Mr. Howard said earlier is that we are being overwhelmed with a volume of material. This is true and I appreciate that, but it is also subject to the fact that the minister and his officials are subject to recall at a later date. I think we should get through this first round first, if possible.

Mr. STEFANSON: Have you any idea of what other committee might be sitting this afternoon?

The CHAIRMAN: The special committee on defence is sitting this afternoon, and it is the only one recorded on the notice.

Mr. HOWARD: Mr. Chairman, I must call on the right established so often and so vociferously by the Secretary of State for External Affairs not too long ago when he would spend hours in committee complaining of the fact that the committees were meeting when the house was meeting when there were important matters being dealt with in the house. As witness, I call the Secretary of State for External Affairs in respect of one of my reasons for objecting to the present motion.

The CHAIRMAN: All those in favour of meeting at four o'clock?

Motion agreed to.

The CHAIRMAN: I will assume that it is the wish that I ask the Minister of Fisheries, his officials, and officials from the Department of External Affairs to be here this afternoon.

#### AFTERNOON SITTING

The CHAIRMAN: Gentlemen, we have a quorum so we will resume our meeting where we left off this morning.

You may proceed to question the Minister of Fisheries and his officials.

Mr. STEWART: Mr. Chairman, in the report of the proceedings of the standing committee on banking and commerce in the Senate on Thursday, May 7, there is reproduced a chart as appendix 1 to the report of the fisheries council of Canada. This chart shows the Atlantic provinces and there is sketched in on that chart certain proposed baselines. Now, it is possible that persons reading this report of the standing committee of the other place would assume that these baselines are the baselines which will be approximated in your negotiations. Would that assumption be valid?



Mr. ROBICHAUD: Mr. Chairman, if I can reply to Mr. Stewart, I believe that what was said by the Secretary of State for External Affairs and probably repeated by myself was that the baselines shown on the chart annexed to the submission made by the fisheries council of Canada could be considered as a basis for our discussions which have taken place with other countries. But, definitely, they cannot be considered as the official document or chart used by the government or by the representative of the government in the discussions that took place.

Mr. STEWART: Would the Minister of Fisheries tell the committee if I am correct in believing that the Canadian position is that Canada has an undoubted right to the waters of the bay of Fundy and the gulf of St. Lawrence?

Mr. ROBICHAUD: I do not believe, Mr. Chairman, that I can use the expression "undoubted right". Any right that Canada would claim in connection with the waters of the gulf of St. Lawrence or the bay of Fundy could be—and, you will note I use the word—subjected to questioning by some countries.

Mr. STEWART: These countries from the viewpoint of the Canadian government would be in error.

Mr. ROBICHAUD: Well, this what we think, yes. We believe they would be in error.

Mr. STEWART: Now, I notice that this baseline does not extend out to Sable island and, if I understood you correctly this morning, you suggested to the committee that the baseline would not be a triangle extending roughly from cape Sable to Sable island and then perhaps back to Cheticamp island. What is the proposal in respect of Sable island? Will there be a territorial sea surrounding Sable island with a circular fishing zone extending around Sable island?

Mr. ROBICHAUD: I think my colleague, the Secretary of State for External Affairs, made it very clear this morning in his brief what our position was in respect of Sable island. Our position in establishing headland to headland points is based on the international practice which follows the regular lines or the direction of the coast, which would not apply so far as Sable island is concerned. But, Sable island being Canadian territory, what would be done is that a territorial sea would be established around Sable island and that sea would be surrounded by a fishing zone of 9 miles.

Mr. STEWART: Then the department is aware that this is regarded as an important fishing area by our east coast Canadian fishermen?

Mr. ROBICHAUD: Yes, and the position we are taking is the one I have just explained.

Mr. STEWART: The question of deciding which headlands to use probably is one which has concerned the minister, Mr. Chairman. I wonder how the minister distinguishes between those headlands which are to be used in establishing the co-ordinates and those which are to be disregarded. What are the rough rules that are to be employed here?

Mr. ROBICHAUD: Well, Mr. Chairman, there again I think that my colleague made this quite clear this morning, when he said: while I am discussing the subject of straight baselines I would like to refer briefly to a point raised during second reading by one or two members concerning the effect of straight baselines on international air traffic. This is what brought me to discuss the Sable island position, and there he quoted again remarks which he had made in the house on May 20, when he said:

These straight baselines will be drawn in accordance with international law, on the basis of the decision of the international court of justice in the Anglo-Norwegian fisheries case and of the Geneva convention on the territorial sea and fishing zones and taking into account Canadian historic interests in the bodies of water off our coasts.



I think this answers specifically the question that was asked, and this again is a basis which has been used and will be used. As I say, this is a basis which has been used in our discussions with other countries and will be used in establishing our co-ordinates.

Mr. STEWART: Then, assuming that the statement made by the Secretary of State for External Affairs is accurate in respect of the procedure to be followed, I would like to ask the minister if the description of baselines suggested in the fisheries council of Canada proposal appearing at page 41 in the report of the standing committee of the other place would be roughly accurate. It reads as follows:

On the Atlantic coast the baseline would commence at the international boundary between Canada and the United States at the mouth of the St. Croix river, to Southwest head on Grand Manan island, across the mouth of the bay of Fundy to cape Fourchu, hence headland to headland to cape Sable, to cape Canso, to Scatari island, to cape Egmont, to Channel head, Newfoundland—

And so on. Is this a fairly accurate description of the results of the application of the principles to which you refer?

Mr. ROBICHAUD: I cannot say it is. The accurate result, yes. But, again I want to use the expression which my colleague and I have used before. This is the basis on which our discussions have taken place.

Mr. STEWART: Now, I want to ask another kind of question. When we talk about countries having historical rights we have generally mentioned a country such as Portugal, Spain, Italy, Denmark, Norway and the United Kingdom, and when we talk about countries having treaty rights we refer specifically to the United States and France. Do either of these countries lay claim to historic rights in the north Atlantic Canadian waters in addition to treaty rights?

Mr. ROBICHAUD: Yes, they do, Mr. Chairman.

Mr. STEWART: In what bodies of water?

Mr. ROBICHAUD: The French claim historic rights inside the gulf of St. Lawrence, on the west coast of Newfoundland, in certain areas on the south coast of Newfoundland, outside the gulf of St. Lawrence, again inside the gulf of St. Lawrence, northwest of Cape Breton island.

Mr. STEWART: In the Cheticamp area?

Mr. ROBICHAUD: Yes. And, the Americans claim historic rights almost on similar grounds plus on the southern part of Nova Scotia and the bay of Fundy.

Mr. STEWART: Would these historic rights which are claimed by France and the United States be subject to phasing out as would be the historic rights of the other countries which I mentioned earlier?

Mr. ROBICHAUD: In view of the fact that these two countries have certain treaty rights and in consideration for the limit of their fishing activities and for the length of time that their fishermen have been fishing in similar waters along with our own fishermen it is not our intention to ask them for a phasing out period.

Mr. STEWART: When you said the limit you meant to imply whatever their historic rights were they were not exercising them to any great extent. Is that right?

Mr. ROBICHAUD: No, this is not exactly but there is a limit to their activities. And, as stated this morning, we have decided to allow them to continue to fish in these areas where they have fished before. We are not opening new areas for them. They are expected to continue fishing subject to agreed



arrangements and regulations provided for the protection of the fisheries concerned; that is, subject to fisheries regulations made by the Canadian authorities.

Mr. STEWART: And, the government is hoping to apply the same kind of regulations to the areas in which these countries exercise treaty rights as to the areas in which they exercise historic rights. Am I correct?

Mr. ROBICHAUD: Yes, although the regulations might apply differently in such cases, they will also apply equally to our own fishermen.

Mr. STEWART: For the different areas?

Mr. ROBICHAUD: Yes, depending on the areas.

Mr. STEWART: Mr. Chairman, those are all the questions I wish to ask at this time. Thank you.

Mr. BARNETT: Mr. Chairman, I was wondering whether at this point I might interject one or two closely related questions to those asked as they apply to the Pacific coast in respect of the claim for historic fishing rights by the United States in waters offshore of British Columbia which might be included within baselines. Does the government take the same position with the United States on the Pacific coast as that which was just stated by the minister in respect of the continuation of historic fishing rights on the Atlantic coast.

Mr. ROBICHAUD: In so far as the United States fishermen are concerned the government is taking the same position on the Pacific coast as it has on the Atlantic coast. Consideration is being given to the fact that our interests are mutual. Our fishermen and American fishermen have been fishing together species and varieties of fish which are intermingled and we are also taking into consideration the fact, if or when the United States decides to introduce a 12 mile fishing zone, which we have no reasons to know or to believe that they will do or will not do, that our Canadian fishermen should be treated alike.

Mr. BASFORD: If I understand correctly, I understood that historic rights are equally a matter of agreement and negotiation and they are not the same as treaty rights; there is no accurate definition. I was wondering, as you spelled them out for Dr. Stewart on the east coast, just what historic rights the Americans are claiming on the west coast in respect of areas and species.

Mr. ROBICHAUD: Mr. Chairman, I cannot give any of these details or the exact rights which the Americans are claiming on the Pacific coast in so far as areas and species are concerned, but what we have in mind, and I think a specific question to that effect was asked of me this morning, are the bodies of water which has been mentioned by the under-secretary of state for external affairs and myself, such as Queen Charlotte sound, the Hecate strait and the Dixon entrance, a 12 mile fishing zone will also include the 12 mile area outside of Queen Charlotte islands where some important herring fisheries are taking place. The main species of fish involved are salmon, halibut, herring and certain types of ground fish which are found in particular areas. But, as I say, the main species involved are salmon, halibut and herring.

Mr. BASFORD: Have the Americans historically engaged in any other fisheries except the four which you mentioned in these waters?

Mr. ROBICHAUD: Not to our knowledge. I am informed also that the Americans have not been engaged in herring fishery. The two species mainly concerned are salmon and halibut.

Mr. BASFORD: Are we to understand that there is an exception with respect to salmon and halibut?



Mr. ROBICHAUD: This is a matter, as I said this morning, which concerns other countries, and which is under discussion. It is for the other countries to claim their historic rights, and we are to decide if they really have such a right or claim to an historic right. These matters are under negotiation and we have made it clear to all the countries, including the United States and France, what our position is. This is the first phase of our negotiations. Now, if some of those countries claim historic rights, then it is up to them to prove to us that they really have such rights as understood by international law.

Mr. BASFORD: That is why I would preface my question with the remarks that historic rights were really a matter of negotiation. Are you free to tell us if the Americans are claiming any other historic rights except as to salmon and halibut?

Mr. ROBICHAUD: They are claiming historic rights on the Pacific coast in the bodies of water mentioned for salmon and halibut, and certain species of groundfish.

Mr. CROUSE: I missed some of the questions asked by Mr. Stewart relevant to Sable island. Might I put one or two questions to the minister regarding it. I wonder, for example, did you state to the committee your intention to draw a baseline around the geographic base, around Sable island establishing a nine mile fishing zone from those baselines? Is that the intention?

Mr. ROBICHAUD: That is right, the same as we would be doing anywhere else along the shore, and on the same bases.

Mr. CROUSE: Well, in view of that, how does the minister propose to enforce the regulation in that area, bearing in mind that there is a constant shifting base of sand, yet as we know this is a very important coast. This is a giant spawning ground in the middle of the Atlantic.

Mr. ROBICHAUD: We realize that we will have a certain problem in enforcing the twelve mile limit, whether it is around the Sable island area or anywhere else along our shore. But we feel that we have available to us certain facilities, patrol boats, airplanes, and other means at our disposal to give adequate protection to the 12 mile fishing zone. Now, there is a possibility that, in view of the shifting sand condition of Sable island, there could be an additional problem. But I think if we had established what we would call the 12 mile zone, I do not think that the changes which could happen on the island itself would be substantial enough to make that much difference on our charts.

Mr. CROUSE: Is it the minister's intention entirely to carry out the enforcing of this act, should it become a law, in his department, or will this authority be reflected in other departments as well, possibly the coastguard, or will it be done entirely under the Department of Fisheries?

Mr. ROBICHAUD: I cannot say that it will be entirely so. We have not reached a decision in this respect, but it is more than probable that co-operation of other departments, such as transport, and even the Canadian navy, might be used at some time in order to give adequate protection. But I do not want to say that it is our intention to get a gunboat principle behind it.

Mr. CROUSE: Thank you.

Mr. BASFORD: I have not finished my questions, and I yielded to Mr Crouse. Now, to continue: In the previous international negotiations at the law of the sea conference, we took a position different from what we are taking now, and as the Secretary of State for External Affairs said, it was done in the hope of obtaining a wider agreement; and the Secretary of State for External Affairs explained that apart from the fishing interest there was national interest which did not require a 12 mile limit, as I understood his evidence. Is that correct? What about the 12 mile territorial sea?

Mr. ROBICHAUD: Well it is more important for us, for the Canadian government, to establish a 12 mile fishing zone along our coast at this time, with a three



mile territorial sea and a nine mile fishing zone, than to attempt to extend our territorial sea by six miles. We would have met with much more serious objection and it would have been much more difficult to establish this 12 mile fishing zone if at the same time we had intended to establish a six mile territorial sea.

Mr. BASFORD: What I am getting at is this: in your opinion is our negotiating position stronger by taking it on a three plus nine basis rather than on a 12 mile basis.

Mr. ROBICHAUD: Yes, it is definitely stronger.

Mr. BASFORD: In the event that the area that we are declaring a territorial sea was challenged in the international court, is our position later on likely to be challenged by having adopted a three and nine mile basis rather than a 12 mile basis?

Mr. ROBICHAUD: Exactly, you are right. It is a legal interpretation, but if you asked me for my personal opinion I would say yes, that I would rather have a definite three and nine mile fishing zone than a six and six proposition. This is a legal interpretation and it would be very difficult for me to give a definite answer, but my personal opinion is yes.

Mr. BASFORD: Getting back to this morning, when we got on to a point of order, I would like to ask if upon the proclamation of section 4 of the act, thus acquiring a 12 mile fishing zone for the west coast and the Queen Charlottes, that 12 mile zone is then free of any undertaking under the NORPAC agreement?

Mr. ROBICHAUD: Yes, it is, because the NORPAC agreement is exclusively for the high seas, exclusive of all territorial waters and fishing zones.

Mr. BASFORD: I wanted to confirm that to see if my interpretation of it was correct.

Mr. HOWARD: Does it say that in the NORPAC convention?

Mr. ROBICHAUD: Yes.

Mr. BASFORD: The territorial sea and shipping zones are specifically excluded from it.

Mr. ROBICHAUD: The term fishing zone would be mentioned as an area where Canada has full fishing jurisdiction. If we take a 12 mile fishing zone and we intend to have jurisdiction over the fisheries in that area, then the convention of the north Pacific treaty will not apply to that area.

Mr. BASFORD: So, upon proclaiming section 4, the Japanese and the Americans, apart from whatever historical rights might be ensured, specifically the Japanese could not fish within 12 miles?

Mr. ROBICHAUD: That is right. And they would be at the same time excluded from fishing within 12 miles of Queen Charlotte, or within the 12 mile fishing zone that would be established on the west side of Queen Charlotte Island.

Mr. BASFORD: I want to ask some questions later on possibly of the External Affairs Department officials about the north.

Mr. HOWARD: Getting back to the basis for discussion and the proposal of the fisheries council of Canada, the minister stated on a number of occasions that it is the basis for your discussion or negotiations with other countries. Also at another stage you have objected to the idea that the geographic coordinates should be set out in the bill itself because by so doing it would firm the position, and you would not be able to move from that point. So presumably then the government of Canada is prepared to move from the points in the fisheries council of Canada submission regarding the baselines.



Mr. ROBICHAUD: That is not a correct assumption. What we have said is that we have been using in our negotiations the basis laid before us by the fisheries council of Canada in its brief of January 28, 1963, but we are not in a position now to give them. If our negotiations had been completed, if we knew exactly and definitely what terms had been agreed upon in our negotiation, we could give an outline of the co-ordinates, but we cannot do this until we have completed negotiations with the countries involved.

Mr. HOWARD: I am not asking you for an outline of the co-ordinates. What I am asking is that taking these two facts into account, the fact that the fisheries council brief is the basis for your discussion, and the fact that it is the intention of the government that the base lines should not at this time be set out which would then firm the position and make it impossible to move from that position, taking these two facts into account, I come to the conclusion anyhow that the Canadian government is prepared in its discussion and negotiation, on the basis of the fisheries council brief, to move from what is contained in the fisheries council brief as a proposal for the base lines. But let me put it in another way: the fisheries council brief sets out a number of points and is says that between these points we want the baselines drawn. If that is the basis of our discussion and negotiations, let us say, with the United States, and if the United States becomes absolutely intransigent about particular points, then the Canadian government would be prepared to move away from that position.

Mr. ROBICHAUD: I think we made it clear this morning that we do not want to say that there are not specific differences between our negotiating position and the recommendation of the fisheries council. I think by doing this it does give a general indication of the Canadian position or the position of Canada in these discussions. I mean, if I were to make clear now what position is being taken by the United States, or by France, or by any of the countries, then I think our negotiations or the continuation of our negotiations would have no more value. If I were to explain now what Canada is prepared to concede or will concede, there would be no need to negotiate.

Mr. HOWARD: To me you have made it fairly clear anyhow.

Mr. ROBICHAUD: No, I think we have made it clear that we are taking a firm position.

Mr. HOWARD: Presumably you have told the United States what your position is?

Mr. ROBICHAUD: That is right.

Mr. HOWARD: Then what is wrong with telling us? What is wrong with taking Canada into your confidence? That would not be disclosing what the United States has told you.

Mr. ROBICHAUD: It would definitely be disclosing what is taking place in the negotiations which are under way and are not completed. I think we went quite far in making it clear that our position in these negotiations was based on the proposal that was laid before us by the fisheries council of Canada.

Mr. HOWARD: And it is subject to mobility depending upon the pressure exerted by other nations in the course of the negotiations, if you are going to have a conclusion in the matter.

Mr. ROBICHAUD: We are negotiating with other nations. Anyone who understands what kind of negotiations or discussions are now taking place will realize that they must be carried on as soon as possible. I think what we have in mind has been made quite clear. We have in mind to establish a 12 mile limit which would be based on co-ordinates established from headland to headland. We have in mind that this baseline will include certain bodies of



water, bodies of water which we have mentioned. The names of those have been brought forward. This is as far as we can go in making available the details of our negotiations at this stage.

Mr. HOWARD: Then there is no point in asking any more about it.

Mr. STEWART: Mr. Chairman, I have a question immediately following upon the line of questioning put to the minister by Mr. Howard.

Quite aside from what would happen if this bill were rejected by parliament in the sense of bringing on an election and that sort of thing, suppose this bill were rejected, what would be the consequences for our negotiations? Would the negotiations terminate? Would we immediately have to abandon any practical aspiration toward the attainment of a 12 mile limit for our fisheries?

Mr. ROBICHAUD: Mr. Chairman, if I may express a personal opinion on this, the result of the rejection of this bill by parliament would mean that the government would be refused the authority to carry on negotiations which are presently under way. It will also prevent the government from proceeding with the establishment of a 12 mile fishing zone, irrespective of the closing of certain bodies of water. According to the authority which government now has, the only possibility would be to establish a territorial sea. What we are asking now, in addition, is for the authority to establish a nine mile fishing zone from the outside line of a territorial sea based from headland to headland. No government could carry on negotiations on a matter like this if the proposal made by the government was rejected by parliament.

Mr. HOWARD: Apropos of that, what would be the position of the negotiations if action on the proceedings, beyond the bill and beyond its present stage, were suspended until such time as the results of the negotiations became more firm?

Mr. ROBICHAUD: I cannot speak for the government on this; it would be for the government to make a decision. However, I think if the procedures were stalled or if this bill were stalled at this stage, the government would be in a very embarrassing position for carrying on negotiations.

Mr. HOWARD: Why?

Mr. ROBICHAUD: Because parliament would be refused the enabling legislation.

Mr. HOWARD: Mr. Chairman, I object to that. We are talking about theory now. Parliament would not be preventing it. I am talking about a deliberate act of postponing a decision until the results of negotiations can perhaps be disclosed, until the time at which you can perhaps take us into your confidence. That is all I am talking about. An attempt to signify that as something akin to defeat of the bill is not very kind of the minister.

Mr. ROBICHAUD: This is not the position taken by other countries placed in a similar position, such as Norway. This is not the position of Great Britain. This is not the position Great Britain is taking today. I think we have to abide by international practice.

Mr. HOWARD: Is it not a fact that Great Britain has taken the position of agreeing with other countries to establish a fishing zone, a course which Canada said could not be taken?

Mr. ROBICHAUD: Great Britain did not take unilateral action. It was, after complete agreement with other countries interested, it was by reciprocal action. Those countries were interested in fishing in the same zone.

Mr. HOWARD: There were more than "both countries".

Mr. ROBICHAUD: There were I believe 13 countries which were interested in fishing in a similar zone. Our position is altogether different.



Mr. HOWARD: What I am getting at, Mr. Chairman, is this. If the minister uses as an excuse the fact that other countries have taken a course with respect to establishing fishing zones, then surely on the other side of the coin others are quite able to take the position that we should do this by attempts at agreement. He cannot have it both ways. That is all I am trying to say.

Mr. ROBICHAUD: Mr. Chairman, if I may reply to that, it would be impossible for any country—Canada or any other country—to take unilateral action in a situation such as this without having the proper legislation to do it, without getting the enabling legislation which we are now asking parliament to give.

Mr. BARNETT: May I set this out as I see it in relation to what the minister has said and in the light of the questions which have been asked earlier?

I think the facts are quite evident. This bill has already passed one of the houses of parliament. It has been approved in principle by the House of Commons. It is now before this committee. It is quite true, as the minister has said, that technically the question of the 12 mile zone or the additional fishing zone beyond the three mile limit would not become Canadian law until royal assent has been given to the bill. But that, it seems to me, is a different question from what is implied by the minister's answer, that a suspension of proceedings until certain aspect of the matter arising out of current negotiation can be clarified before the committee would be tantamount to a rejection in the eyes of other countries by the Canadian parliament of what the government is seeking to do by this bill. I think those facts should be considered.

Leaving aside any question of theoretical want of confidence considerations in parliament, as Dr. Stewart has already said, I think what we are concerned with—or at least, what I am concerned with—in this committee is the practical situation of just what is going to happen to the fisheries. In assessing this matter as a committee, these are the things with which we are concerned. We have not quarrelled too much with the fact that the minister cannot tell us all the details of negotiation, but certainly a good many of the very important aspects of this bill are obviously up in the air. I think it is from that point of view that we should like to have the minister consider this question rather than try to suggest that this would ruin our case in discussion with other nations by an implied rejection by parliament, which I do not feel is the situation with which we are concerned at all.

Mr. ROBICHAUD: May I reply to this?

If the hon. member is really concerned with fisheries—and I am sure he is; I have no doubt in my mind that he is really concerned with fisheries—I think he should also realize that the passing of this bill would enable the government to proclaim the 12 mile fishing zone. Furthermore, I think we can also conclude that if parliament shall cast any doubt by delaying action on this bill, our negotiating position with other countries will certainly be damaged.

Mr. BASFORD: The bill provides two things. It provides for the declaration of a 12 mile fishing zone by proclamation and the means by which to establish the base line. Surely, to reject or suspend the bill would be to immediately reject or suspend the conception of a 12 mile fishing zone for Canada.

Mr. ROBICHAUD: Definitely.

Mr. STEWART: Earlier, I asked certain questions concerning the legal position in the Atlantic waters of Canada and the principles that would be used in drawing the base lines. I wanted to ask another question which was rather different and I left it because I thought perhaps Mr. Barnett would want to raise some more questions concerning the Pacific waters. That having been done, I want to go back to the other question.

We make the argument that this piece of legislation is desirable because it will permit the government to embark upon a program of conservation of a very



important resource, but I have not yet seen anything very specific of the nature of the program which, presumably, is the fundamental justification for the establishment of this 12 mile fishing zone. I wonder, Mr. Chairman, if the minister, without giving a great deal of detail, could sketch for us what must inevitably be the principal justification for this legislation.

Mr. ROBICHAUD: Mr. Chairman, conservation can only be considered, I think, as one aspect of this bill. This bill alone cannot provide the type of conservation which we require for the full protection of our fisheries, but the fact that we are preventing large fishing operations in certain areas along our shore, operations which are increasing year after year and which, if we allow them to continue, in four or five years from now might be beyond our control—this alone is doing something for conservation. Furthermore, the gradual phasing out of a certain type of fishery from certain countries in the gulf of St. Lawrence, which is considered to be a prolific producing ground, will also have something to do towards conservation.

The implementation of this legislation would provide, as I said this morning, a certain protection for a certain group of our fishermen, particularly the inshore fishermen. Along our shores, particularly on the Atlantic coast and within the gulf of St. Lawrence and other areas, we have certain limited areas where we have substantial inshore fisheries. This legislation, together with the amendments which we are proposing to our existing fisheries regulations, will provide that type of protection for these particular groups of fishermen.

Mr. STEWART: That is very satisfactory, Mr. Chairman. I could ask more specific questions concerning different species and types of gear, but I think the minister has suggested at least the lines of his thought.

The CHAIRMAN: Thank you, Mr. Stewart.

Are there any other questions for the minister or his officials?

Mr. BARNETT: If no one else wants to enter into this discussion at this stage, Mr. Chairman, there are one or two questions I would like to ask for clarification on this document on the law of the sea which was distributed to us earlier.

I am wondering whether this could not be made an appendix to the proceedings so that it will be clear to those reading the proceedings, if we raise any questions about it, just what we are talking about.

Mr. BASFORD: This is a statement which has been provided by the Department of External Affairs at the request of Mr. Howard. It deals with the various treaties that affect Canadian waters. I would move that it be appended to the proceedings of the day.

Mr. STEWART: I second that motion.

The CHAIRMAN: It is moved by Mr. Basford, seconded by Mr. Stewart, that the paper entitled "Law of the Sea", which was produced by the Department of External Affairs, be appended to the proceedings of the day.

Motion agreed to.

Mr. BARNETT: By way of clarification, the first page—which deals with article I of the Convention of Commerce between His Majesty and the United States, signed at London, October 20, 1818—makes reference in the middle of the page to the situation of the Hudson's Bay Company. It is suggested that the rights would extend northwardly indefinitely along the coast of Labrador without prejudice, however, to any of the exclusive rights of the Hudson's Bay Company.

I wonder whether, at a date subsequent to the coming into force of this treaty, those rights of the Hudson's Bay Company were transferred to or vested in the government of Canada, and if so what effect that phrase in this treaty has in respect to the rights of the United States on the northerly part of the coast of Labrador. I assume the question of rights in the Hudson bay



may have entered into this at the time. I wonder if it can be clarified so we know what this phrase means?

Mr. ROBICHAUD: The reason why Hudson bay was not raised in our negotiations was mainly due to the fact that there was no fishing operation taking place in Hudson bay and there was no country—and this is similar to the remark I made this morning—interested in fishing off the Canadian shore which has shown any interest whatever in Hudson bay. Hudson bay is, I would say, and has been considered for a long time Canadian water.

Mr. BARNETT: There must have been some matter of Hudson's Bay Company's rights involved at the time this treaty was negotiated, otherwise reference would have been made to it. Was it purely for the purpose of making clear that the United States would have no right fishing the Hudson straits over Hudson bay, or did the Hudson's Bay Company have the right along the coast of Labrador at that time?

Mr. ROBICHAUD: Do you have in mind fishing operations or processing? You see, the treaty referred to processing rights; it had nothing to do with fishing rights, which are altogether different from the terms of the treaty, which you will find later on. It had to do with processing rights. As these rights have been vested, as you say, in the government of Canada, it never came up in our discussion. We were mainly interested in the fishing rights. When the establishment of the baseline is made, Hudson bay will automatically be considered as Canadian water.

Mr. BARNETT: But in fact, any rights which the Hudson's Bay Company enjoyed at the time this treaty was negotiated are now vested in the government of Canada? Is that clear?

Mr. ROBICHAUD: Yes. That is one reason why they did not come into our discussion.

Mr. BARNETT: I have just one further question with reference to the treaty. Article 1 spells out the rights of the United States in respect of Canadian waters. I understand that at one time we also enjoyed equal and similar rights in American waters. I would like to have cleared up in my mind whether those rights have been expunged, whether it was in an earlier treaty over which this one takes precedence that those rights were set out, or is it not included here because it has reference to our rights in American waters? In other words, have we apparently any rights in American waters similar to those set out in this treaty?

Mr. ROBICHAUD: It is not mentioned in these treaties, details of which we have before us now, but there could have been previous treaties where similar rights were granted, superseded by this treaty of 1812, where Canada was given the same rights as the United States.

Mr. BARNETT: I am sorry but I am still not clear whether the rights which the Canadians at one time enjoyed in American waters have been abrogated.

Mr. ROBICHAUD: They do not exist any more; they have been abrogated or superseded by the treaty of 1812.

Mr. BARNETT: I want to make clear that this sequence of documents we have represents the sum total of the fishing rights enjoyed by the nationals of either country.

Mr. MACLEAN (*Queens*): Mr. Chairman, I have a couple of general questions. Perhaps the minister would like to answer them himself or they could be deferred until one of the officials is giving evidence because perhaps they are legal in nature.

One question is in respect of the bill itself. So far as I could determine in respect of the co-ordinates there is no limitation in the bill where the co-ordinates may be. I would like to suggest that this be taken under consideration



and that thought might be given to an amendment to the bill which will specify the co-ordinates have to be at headlands or that there is some limitation on where they might be. I do not think that it would be proposed that you would have a co-ordinate which would be out at sea somewhere and would have just a geographical latitude and longitude, for example. Therefore, unless I misinterpret you, I think it might be advisable to consider amending it so it would be specified there and there would be some limitation as to where these co-ordinates would be.

I realize that the Secretary of State for External Affairs in giving evidence this morning stated the determination of these co-ordinates would be in accordance with general international practice or something to that effect but might it not be well to spell this out in the bill? I am not suggesting anything that would limit the freedom of the negotiations when determining where these points might be but I do not think it is wise to grant inadvertently greater powers than are intended.

Mr. ROBICHAUD: Mr. Chairman, I very well understand the point raised by Mr. MacLean and, as he has just stated, the Secretary of State for External Affairs this morning made it quite clear that the baselines will be drawn in accordance with international law on the basis of the decision of the international court of justice in the Anglo-Norwegian fisheries case and of the Geneva convention on the territorial sea and fishing zones, taking into account Canadian historic interests in the bodies of water off our coasts. Now, I cannot give a specific reply to Mr. MacLean at this stage because this is a matter which we will have to take under advice. As I say, we will have to obtain advice on it and we probably will give a more definite reply at the next meeting.

Mr. MACLEAN (*Queens*): My other question is one that I do not think has been raised and, to a point, I suppose it has to be hypothetical at this point. But, I am presuming the gulf of St. Lawrence, as an example, will be in fact national waters and, therefore, the fisheries laws of Canada will be enforced therein. I am wondering about the question of legal jurisdiction in so far as what court an offender arrested would be subject to. I would think you would have to have some sort of a division line in the gulf of St. Lawrence for the purpose of the application of the fisheries laws so that if a foreign fisherman or, indeed, a Canadian fisherman, is apprehended in these waters it will be automatic, depending on where the offence was committed in what court the charge would be heard; in other words, which province would have jurisdiction. He could be somewhere half way between Nova Scotia and the Magdalen islands. I think it would be very bad if the defence could argue that the court before which the offender is being tried has no jurisdiction. I was wondering if this to date has been determined properly?

Mr. ROBICHAUD: Mr. Chairman, again Mr. MacLean has raised a question which is very important. This is one question which has come to our attention during our negotiations, particularly as it applies to the two countries who have treaty rights more so than those who claim only historic rights. As this is a matter which is under negotiation and discussion with the countries involved as much as I would like to I think at this stage we cannot state definitely what position will be taken. However, this is a very important matter and one which is being considered in the negotiations.

Mr. MACLEAN (*Queens*): And, it will have application even so far as Canadians are concerned. Supposing a Canadian is arrested somewhere in the gulf of St. Lawrence; he has to know where the jurisdiction lies. On land it is perfectly simple, but I would think that for a jurisdictional purpose the bodies of water which are between provinces will have to have some inter-provincial border line for this purpose.

Mr. ROBICHAUD: Mr. Chairman, on this point raised by Mr. MacLean I think I could give a more definite reply. There will be no question that they will



come under the Canadian jurisdiction. They will be subject to the fisheries laws or regulations and, as you say, a line may have to be drawn in order that it can be determined in what provincial court they will be heard.

Mr. NOBLE: Mr. Chairman, what about the ownership of the offshore mineral rights; will this come under this bill?

Mr. ROBICHAUD: No. It has no effect whatsoever to the continental shelf except that there might be certain areas, particularly on the Pacific coast, where we understand the territorial sea, by using the headland to headland baseline, will affect our rights because our claim would be as far out as the outer line of the territorial sea.

Mr. NOBLE: Then this agreement would be under the 3 mile territorial limit. Is this what you are trying to tell us?

Mr. ROBICHAUD: Yes.

Mr. NOBLE: Under the new baseline system would this apply?

Mr. ROBICHAUD: Yes, it would extend in certain areas our territorial sea. By following the headland to headland basis, at the same time it would extend our right up to the outer line of the three mile limit.

Mr. BASFORD: They would affect our rights vis-a-vis other nations but this bill does not affect the rights to minerals under the sea vis-a-vis the provinces?

Mr. ROBICHAUD: No, but with foreign countries, and that was the purport of Mr. Noble's question.

The CHAIRMAN: Are there any further questions?

Mr. BARNETT: If no one else wants to put a question at this time I would like to ask this question for the purpose of clarifying a statement I understood the minister to make in this morning's session; it had to do with the establishment of historic fishing rights and I think the minister will recall that he mentioned that certain nations are now on the verge of establishing historic rights. I am not quite sure whether I heard him correctly when he made reference to some recognition of a five year period as being a basis for the establishment of such rights. I am wondering if that was the statement he made and if perhaps he could, for the information of the committee, explain a bit just where the suggestion of this five year period arises and what foundation it has in international law or practice—that is, the period of time under which such rights may be considered to come into effect.

Mr. ROBICHAUD: It is the limit or the time that was proposed by the Geneva convention. It is the one that was proposed and agreed upon by both the United States and Canada, and most of the countries in establishing 12 mile limits or fishing zones have used the five year period as a basis for recognition of an historic right. As I have said this morning, we have countries who have been fishing in our waters. I gave as an example Norway, whose fishermen have been fishing for porbeagles in the gulf of St. Lawrence waters for the last two or three seasons. So, if they are allowed to extend or to carry on these operations for another two or three years, then they will come to us and claim an historic right. So, it is urgent for Canada to decide to impose now a 12 mile limit and close certain bodies of water.

Mr. BARNETT: But this is really just a matter of developing practice rather than anything specific spelled out in the Geneva convention?

Mr. ROBICHAUD: It is an accepted practice, an international practice.

Mr. CROUSE: Apropos the question asked by Mr. Noble, the minister mentioned the three mile territorial sea and the mineral rights in the three mile territorial sea are all that we could claim. But, in looking at the map there lies between the three miles from the coast of New Brunswick and the three



miles from the coast of Prince Edward Island three miles of water. As you know, there has been drilling operations for oil proceeding. If they found oil in those waters would this come under the jurisdiction of the provincial governments of Prince Edward Island or New Brunswick or under the federal government?

Mr. ROBICHAUD: This is a legal question which I could not answer. But, I might add, and I know what the hon. member is referring to, on the Atlantic coast the continental shelf extends in some places much farther than three miles. It extends to 10 or 12 miles and sometimes even hundreds of miles, like the coal mines of Nova Scotia, for example. But, in answering the question, so far as rights are concerned, if there is oil found there I am unable at this time to answer who has the right to claim jurisdiction.

The CHAIRMAN: Gentlemen, if there are no further questions I would remind the members of the committee that we do have with us the officials from the Department of External Affairs and the Department of Fisheries.

Mr. BARNETT: Just on that point, Mr. Chairman, I wonder if the minister or the officials of the fisheries department have been able to come up with any determination in respect of how much of the information that was requested this morning by Mr. Howard will be available to the committee and when it might be available.

Mr. ROBICHAUD: Mr. Chairman, we will have this information available for the next meeting. We will have it put together within the next two days.

The CHAIRMAN: Then, gentlemen, the decision was made at this morning's meeting that there would be another meeting on Thursday, June 11, at 9.30 a.m. If you recall, I mentioned there would be a certain amount of flexibility. We have had that already because we have had a meeting in between. It was agreed that Mr. Robichaud would be asked to that meeting. I might add further that it was understood at a previous meeting that when asking the ministers it was understood that if they came they would have their officials with them. So, when we ask the minister to be here on Thursday I think we should be able to assume the officials who are here now and any others who may wish to come will be here and available on Thursday morning.

Mr. STEWART: I have two questions. On Thursday, when the Minister of Fisheries is here again with his officials will members of the committee be permitted to direct questions directly to officials of his department and possibly to officials of the Department of External Affairs?

The CHAIRMAN: Yes.

Mr. ROBICHAUD: Yes.

The CHAIRMAN: Mr. Robichaud says the answer is yes to both, I believe.

Mr. STEWART: My second question is this. Mr. Chairman, what is envisaged for our meeting on Monday next, assuming we have completed the interrogation of the officials of the department.

The CHAIRMAN: The minute of this morning states that Mr. Stevens of the United Fishermen and Allied Workers Union would be here on Monday. I might add that following this morning's meeting when this was discussed Mr. Stevens told me he would prefer it to be a week later. As a matter of fact, I intended before the meeting closed to pass that information on to you.

Mr. STEWART: Well, Mr. Chairman, I think we ought to adhere to the decision made this morning.

Mr. BARNETT: On that point, Mr. Chairman, some members of the committee may be aware there was a question which arose in respect of representations by the organization which Mr. Stevens represents when the bill was before the Senate banking and commerce committee and because of a rather unfortunate circumstance they were not able to appear. Now, it does seem to



me, particularly in view of that situation, that the fishermen's organization from the west coast should be given an adequate opportunity to prepare the submission they might want to make to this committee in light of the facts that are being brought forward as a result of the discussion in the House of Commons and perhaps in the initial hearing of this committee.

I think it is well known. I have heard the minister state that he received a brief on this general subject from the fishermen's organization, and I assume that it will be quite possible for them to re-submit such a brief. But it does seem to me that if there would be any value in their appearing before us, they should be able to make representation based upon the additional knowledge they may receive and in the light of the discussion, rather than upon the generalities upon which such representations would necessarily have to be made earlier before the bill had been distributed. And if an appearance a week later would better suit their convenience, then I suggest this committee should be disposed to go along with that suggestion.

The CHAIRMAN: Thank you, Mr. Barnett. I think I should hear what other members of the committee have to say. Mr. Stevens mentioned to me that he would like to have more time to re-prepare, it may be, or to revise the submission that he might make. I find there was a motion made this morning to this effect, and I have to bring this back to the committee.

Mr. CYR: Some three weeks ago I received a delegation in my office of the United Fishermen and Allied Workers Union, and they were ready to appear before the committee at that time. They said they would like the bill to be referred to the committee before second reading. That was three weeks ago. They will be coming here next Monday. I think they are ready to be heard. I do not think we should change the procedure adopted by the steering committee.

Mr. BASFORD: Well, speaking as a member of the steering committee, we went into this very carefully to determine the timetable of meetings, and the timetable worked out seemed to be satisfactory to the steering committee and was approved this morning. I can see no great reason to change it.

The CHAIRMAN: Is there any further comment?

Mr. BARNETT: There is no point in continuing this matter in an aimless discussion. I move the committee agree to hear the brief of the United Fishermen and Allied Workers Union on the date requested.

The CHAIRMAN: You mean on June 22?

Mr. BARNETT: Yes, on Monday June 22, rather than on Thursday.

Mr. WEBSTER: I second the motion.

Mr. PATTERSON: Would a decision like this hold up the work of the committee at all?

The CHAIRMAN: No, provided that we could get the fisheries council to come this coming Monday. But if we cannot, then it is another matter.

Mr. BARNETT: I suggest it should not be too difficult. I do not know at what length either of these organizations would make a presentation, but I have it in mind to move that if it be possible we hear both these organizations on that date, on June 22.

Mr. STEWART: If I thought there was any great weight behind this desire to put off their presentation to the committee, I would be happy to support Mr. Barnett's motion. But it seems to me that an organization which has missed one deadline, and which was ostensibly quite prepared on several occasions as indicated to the committee properly to discuss this whole matter prior to second reading in the House of Commons ought to be prepared to come forward to assist the committee now. It is true that the Minister of



Fisheries has been very forthcoming in the information he has given to us today, and I do not think any of us have been particularly surprised by anything that he has said, so I do not think that there is any new information which would justify a delay of this kind. I think that this new motion to reconsider a matter on which a decision was reached earlier is one which we really should not accept.

Mr. BARNETT: Apropos of what Mr. Stewart has said, I think it should be pointed out that the members of the committee are aware that the organization we are discussing has had an observer present at our proceedings today, but I think it should be pointed out that it is a union organization and that the decision about the presentation they wish to make is one which is not made by any one individual, as might be done by the head of a company, but rather as a result of a collective decision. If the bill had come to the committee before second reading, that might involve one kind of representation. But now that the matter is before the committee and certainly additional information has been given to us, it seems only right and proper that there should be an opportunity given for them to make a collective decision in the light of additional available information, rather than to force a representation of the kind made earlier to the minister. In other words, I assume that they as a group would have to consider this bill in the light of all the information that we given to it, and it is purely on this ground that I express the desire for a little further time.

Mr. MACLEAN (*Queens*): There is a bit of difficulty here perhaps because the members of the committee are not fully aware of the difficulties which have been brought to the attention of the Chairman. I think it is correct to say that we have already decided a point, and I think that under the rules, technically we would be out of order to question a decision that has already been taken and to reverse a decision made this morning except if it were done by unanimous consent. Therefore perhaps as an attempt to resolve the problem, the committee might be agreeable to leaving this in the hands of the Chair or of the steering committee, or with someone who would be fully aware of the difficulties involved. We would prefer to be able to stick to the program that has already been approved. But on the other hand I do not think the committee would wish to eliminate a witness because he is unprepared to be here on a specific date, if we could accommodate him without throwing the whole program of the committee out of line entirely or without wasting the time of the committee and having nobody prepared to appear before the committee for a week or two. I think we should try to hear the witness or some other witness in his place in the meantime. I think this is something which the steering committee should iron out, if they were given general direction from the committee as a whole, as to the order in which available witnesses will be heard for the next week or so.

The CHAIRMAN: Thank you, Mr. MacLean.

Mr. BARNETT: If the committee were disposed to follow the line suggested by Mr. MacLean I would be willing to withdraw my motion. But I think it should be pointed out that when the proposal was brought before us this morning setting a certain date for a certain appearance, I, as a member of the committee, assumed that the dates suggested had been more or less agreed upon between the steering committee and those who wished to be here. I think that perhaps may have been in the mind of a number of members of the committee when we did pass the motion this morning. But I myself feel that if at our next meeting we should have information brought in by departmental officials of the details, and the impact of this thing upon our fisheries, we would then have the details of it and perhaps could have both the organizations at our next meeting.



Mr. MACLEAN (*Queens*): If I understand this properly, if Mr. Barnett is agreeable to withdrawing his motion, I would like to move that the steering committee be given power to modify the order in which the witness would be heard as agreed upon at this morning's sitting of the committee to the extent that it may be deemed necessary to allow witnesses to appear.

Mr. STEWART: Before the vote is taken should I assume from the motion that the witnesses would then be in a position to decide whether or not they will appear on a certain date? Mr. MacLean used the words "to allow the witnesses to appear". Who is to interpret those words?

Mr. MACLEAN (*Queens*): By their own accommodation; I think we should insist that a witness be heard at a given time rather than to place the committee in a position where it had no witnesses available. But I do not insist upon the motion.

The CHAIRMAN: I think this could be very helpful. Is there a seconder?

Mr. BARNETT: I second the motion.

The CHAIRMAN: Your motion is withdrawn, Mr. Barnett.

Mr. BARNETT: Yes.

The CHAIRMAN: Would the reporter please read the motion?

The REPORTER:

Mr. MacLean: ... I move that the steering committee be given power to modify the order in which witnesses would be heard as agreed upon by this morning's sitting of the committee to the extent that it may be deemed necessary to allow witnesses to appear.

Mr. BASFORD: This question puts the committee in an invidious position. We agreed upon one thing and made a recommendation, and then it is all thrown back on the committee to rearrange. The steering committee discussed this point very carefully on the basis of letters received from various organizations, and arranged a timetable accordingly. I think that, having accepted the report this morning, we should stay with it.

The CHAIRMAN: Is there any further comment on the motion? All those in favour?

The CLERK: Eight.

The CHAIRMAN: Those opposed?

The CLERK: Eight.

The CHAIRMAN: May we have a recount before I cast my vote? All those in favour?

The CLERK: Eight.

The CHAIRMAN: All those opposed?

The CLERK: Eight.

The CHAIRMAN: I am going to decide in favour of it going back to the steering committee.

Mr. BASFORD: I move we adjourn, and that we have a meeting of the steering committee.

The CHAIRMAN: Will the steering committee please remain?

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THURSDAY, June 11, 1964.

The CHAIRMAN: Gentleman, we have a quorum. As our first item of business I would like to read to you the report of the subcommittee on agenda and procedure.

(See minutes of proceedings of Thursday, June 11, at page 12)



Would someone care to move the adoption of the third report of the subcommittee on agenda and procedure.

Mr. BASFORD: I so move.

Mr. CYR: I second the motion.

The CHAIRMAN: It has been moved by Mr. Basford and seconded by Mr. Cyr that the third report of the subcommittee on agenda and procedure be adopted. Does anyone wish to make any comment? If not, all those in favour? Contrary if any?

Motion agreed to.

The CHAIRMAN: Gentlemen, we will proceed now with the business which has been set out for this morning.

First of all, I would like to ask the minister, the Hon. Mr. Robichaud if he has anything to say before questions are put.

Hon. H. J. ROBICHAUD (*Minister of Fisheries*): Mr. Chairman, I have nothing to add to what I said at the last meeting.

If there are any further questions to be directed to me I will try to answer them to the best of my knowledge.

If the members of the committee feel that they have no further questions to ask I have with me this morning officials from my department.

The CHAIRMAN: Mr. Robichaud, I wonder if you would introduce the officials in the event that some members of this committee are not acquainted with them.

Mr. ROBICHAUD: I have the deputy minister of the department, Dr. Needler, the assistant deputy minister, Mr. Ozere, and we have officials of the Department of External Affairs who could be introduced maybe after you have put questions to officials of the Department of Fisheries.

The CHAIRMAN: Perhaps you would introduce them at this time.

Mr. ROBICHAUD: If you would like to have me introduce them now I will do so.

Perhaps it would be better if the officials introduced themselves. Mr. Wershof, would you introduce yourself, and others from External Affairs or other Departments.

Mr. M. H. WERSHOF (*Legal Adviser and Assistant Under-Secretary of State for External Affairs*): My name is Mr. Wershof. I am the legal adviser of the Department of External Affairs. I have with me two officers from that department, namely Mr. Gotlieb and Mr. Reeves.

There are officials of other departments here but I do not think it is for me to introduce them. They are here to listen to the proceedings. Whether or not they will be regarded as witnesses or if they will be desired to give evidence for any purpose by the committee would depend on what the committee later requests.

Mr. ROBICHAUD: We have someone from the Department of Justice. Would you introduce yourself, Mr. Affleck.

Mr. J. D. AFFLECK (*Assistant Deputy Minister of Justice*): My name is Mr. Affleck. I am assistant deputy minister of justice.

Mr. R. R. MACGILLIVRAY: My name is Mr. Macgillivray and I am from the Department of Transport.

Mr. E. F. GASKELL: My name, Mr. Chairman, is Mr. Gaskell and I am from the privy council office.

Mr. N. G. GRAY: I am Mr. Gray and I am the dominion hydrographer, marine sciences branch, Department of Mines and Technical Surveys.

Mr. ROBICHAUD: Mr. Chairman, I have nothing further to add. We are now at the disposal of the committee.



Mr. HOWARD: Mr. Chairman, I wonder if I could deal with one matter first which might have left an incorrect impression. I may have misunderstood but the other day I believe Mr. Basford made reference to the North Pacific Fisheries Treaty and Protocol and indicated that because of that treaty or convention that territorial seas and fishing zones were exempted or excluded from the area over which the NORPAC convention would apply. Reference was made to the Queen Charlotte islands area and Mr. Robichaud said:

Yes, it is, because the NORPAC agreement is exclusively for the high seas, exclusive of all territorial waters and fishing zones.

Then, Mr. Basford said:

I wanted to confirm that to see if my interpretation of it was correct.

Then, I interjected by saying:

Does it say that in the NORPAC convention?

And, Mr. Robichaud said:

Yes.

I have not had time to read fully that convention. It may be there is some provision, as there is in some of these acts, which has altered that by order in council or by agreement between the various countries. But, article 1, which is the schedule to the North Pacific Fisheries Convention Act says:

The area to which this convention applies, hereinafter referred to as "the convention area", shall be all waters, other than territorial waters, of the north Pacific ocean which for the purposes hereof shall include the adjacent seas.

I have not been able to go through the act and the convention in detail and it may be there is some arrangement whereby the three nations which are signatories to the convention could have made some alteration to it. But, reading article 1 of the convention I note that it makes no reference to fishing zones. I wonder if that could be cleared up.

Mr. ROBICHAUD: Mr. Chairman, the North Pacific Treaty Convention or protocol could not include any reference to fishing zones because there was no such thing in Canada as fishing zones. We will have fishing zones only after this bill is adopted.

If I could clarify my answer in reply to Mr. Basford what I meant was that the North Pacific Treaty applied only to areas of waters other than those referred to at the time of the convention, that would have been territorial sea, because it is the only term that could be used officially in Canada. We had not such a thing as a fishing zone.

The article quoted by Mr. Howard is right. It says:

The area to which this convention applies, hereinafter referred to as "the convention area", shall be all waters, other than territorial waters, of the north Pacific ocean which for the purposes hereof shall include the adjacent seas.

Paragraph 2 of article 1 reads:

Nothing in this convention shall be deemed to affect adversely (prejudice) the claims of any contracting party in regard to the limits of territorial waters or to the jurisdiction of a coastal state over fisheries.

This is exactly what will happen when fishing zones are established. So, I think this section justifies the reply which I gave to Mr. Basford.

Mr. HOWARD: That may well be but what I was getting at was that the reply could have been misleading. This is what I said at the start and I wanted



to have it cleared up. It did not refer to fishing zones as such in the NORPAC treaty.

Mr. ROBICHAUD: But I think the section I have quoted now covers the matter.

Mr. HOWARD: Well, this is a matter of argument, not on my part but it could be a matter of argument on the part of the Japanese; you know how wily they are in their discussions because you have dealt with them on at least two occasions now in respect of the re-negotiation of the NORPAC treaty. You know how wily and assiduous they are in pushing their claim to fishing rights beyond the area under extension.

Mr. ROBICHAUD: Again, in reply I wish to emphasize the point that this is exactly what this bill will be doing; it will be extending Canadian jurisdiction over fisheries up to a distance of 12 miles, which will include the 3 mile territorial sea and the 9 mile fishing zone. And, part 2 of this article clearly states that nothing in this convention shall be deemed to affect adversely the claims of any contracting party in regard to the limits of territorial waters or to the jurisdiction of a coastal state over fisheries. So, if Canada can establish jurisdiction over fisheries up to a 12 mile limit then the North Pacific Treaty will not apply inside of that particular area. So, it will not have jurisdiction inside of the 12 mile limit because this 12 miles will include an area where Canada would claim jurisdiction over its fisheries.

The CHAIRMAN: Have you a question, Mr. Mullally?

Mr. MULLALLY: Mr. Robichaud, if after this legislation is enacted the gulf of St. Lawrence was declared inland or national waters would this prohibit foreign countries from hunting seals in the gulf of St. Lawrence as well as fish?

Mr. ROBICHAUD: Yes, it would. Again, this is one of the matters which is under discussion in our negotiations with the countries which are claiming certain historic rights for the hunting of seals inside the gulf of St. Lawrence.

Mr. MULLALLY: But, it would be controlled?

Mr. ROBICHAUD: It will be controlled. It will facilitate our control of seal operations not only in the Gulf but also on the east coast of Newfoundland and in the strait of Belle Isle.

Mr. CHATTERTON: What is the situation in respect of sport fishing, let us say. Certain suggestions have been made by the fisheries council. Suppose the strait of Georgia becomes Canadian waters; would we be able to control American sport fishing?

Mr. ROBICHAUD: The strait of Georgia already is internal waters and we have full control of the sport fishing in this area.

Mr. CHATTERTON: Are you referring to the whole of the strait of Georgia?

Mr. ROBICHAUD: Yes.

Mr. CHATTERTON: By nature of what act does this authority lie with Canada?

Mr. ROBICHAUD: Canada always has claimed that the strait of Georgia was Canadian waters; this has not been objected to and there have been no claims in this regard by the United States.

Mr. CHATTERTON: But, in fact, American sport fishermen go there and there is no control over them whatsoever. They are not required to pay a licence.

Mr. ROBICHAUD: The American sport fishermen do fish in the strait of Georgia under authority granted by the Canadian government. They do under our own control.



Mr. CHATTERTON: But, if we wanted to impose a fishing licence in respect of salt waters for sport fishermen would we have the right to insist that the Americans do have such a licence to fish on the strait of Georgia?

Mr. ROBICHAUD: Yes, we have the right to licensing.

Mr. CHATTERTON: Is that without this bill?

Mr. ROBICHAUD: Yes. We now do have this authority. As the hon. members also are aware we are now forming a sports advisory committee in British Columbia in co-operation with the provincial government and different sport fishing organizations in that province.

The CHAIRMAN: Mr. MacLean, would you proceed?

Mr. MACLEAN (*Queens*): Mr. Chairman, I have a question which is supplementary to the one put by Mr. Mullally.

Do the treaty rights held by France and the United States in the gulf of St. Lawrence include the right to take seals or has this question ever been raised?

Mr. ROBICHAUD: No, it is not included in the treaty and it could not be included in the historic rights because they have not practised this type of operation in the past. The only two countries affected by this would be Denmark and Norway, particularly Norway in the strait of Belle Isle area.

Mr. HOWARD: A day or two ago I was reading *Western Fisheries*, May, 1964, and at page 68 it makes reference to an agreement between Japan and the Soviet Union. Undoubtedly the minister has knowledge of this article but I will read two paragraphs of it in order to put the full impact of it before the committee. I am reading as follows:

The Japanese and Russians have agreed on a salmon catch quota of 110,000 metric tons for Japanese fleets in the north pacific. It is the lowest catch quota established in 8 years, and will be divided equally between the two areas designated under the Japan-Russia fisheries treaty. One area takes in the waters close to Japan and Kamchatka, and the other area is far off shore in mid Bering sea.

Under the new agreement, Japan will voluntarily regulate the catch of red salmon in area A closest to Kamchatka, restricting the total catch to 7,750,000 fish. Of this amount, Japan will limit the catch in the area west of 165 degrees east longitude and north of 48 degrees north latitude to 2,500,000 fish.

Is there any understanding of this or any interpretation being put upon it to determine what effect that might have or will have upon the salmon stocks on the high seas in the mid pacific? Does it exert a pressure against one particular area as opposed to another?

Mr. ROBICHAUD: This is a technical question and it would be difficult for me to answer because it has some scientific application, and as it is an agreement between two foreign countries, Japan and the Soviet Union, it would not be proper for me to comment on the effectiveness of such an agreement. Furthermore, as I have said, it has some scientific applications which I would not dare to comment upon because I do not think that personally I am familiar enough with this particular aspect to express an opinion that would be worthwhile.

Mr. HOWARD: I can appreciate that, Mr. Robichaud and perhaps Dr. Needler might be able to make a statement on this from the technical point of view at some future time.

I was not inquiring about the effectiveness of this agreement between Japan and Russia but rather the effect of it on stocks of salmon on the high seas.



There is another article in this publication. It is a rather extensive one. It is in two parts. It was written by Mr. Wilbert McLeod Chapman, president, Van Camp foundation. I do not know Mr. Chapman from a hole in the ground or the Van Camp foundation. But, this article is headed up 12 mile limit of no use in conservation.

In respect of halibut he goes into quite some detail, part of which is as follows:

It has been known for thirty years that the halibut of the eastern north pacific regularly undertake migrations of as much as 1,000 or 2,000 miles, those tagged off Canada being taken off Alaska, and vice versa, and in the intervening high seas.

He goes on to say:

If Canada and the United States both declared and enforced 12 mile fishery limits it would have no appreciable effect on the conservation of the halibut resources upon which both countries fish. Those resources could be quickly and thoroughly depleted through fishing outside a 12 mile fishery zone.

I am wondering if Mr. Chapman's contention is correct, incorrect, or to what degree it is partially correct.

Mr. ROBICHAUD: Well, Mr. Chairman, this is a matter of opinion. As I stated at the last meeting, when discussing the effect of the 12 mile limit on conservation on the Atlantic coast, the same would apply on the Pacific coast, that is perhaps the application of a 12 mile limit may not have immediate effect in itself in so far as conservation is concerned, but the fact that Canada would have full control on certain internal bodies of water will be beneficial. Canada certainly will be in the position to apply conservation measures which it will claim to be justified for the preservation of certain species of fish. But, as I have stated, when speaking about the Atlantic coast, the 12 mile limit by itself is not enough; it has to be supplemented by international treaties such as the ones we have on the Pacific coast as well as on the Atlantic. We agree that if we are dealing with migratory fish or with a variety of fish which we cannot control in our internal waters we must have certain conservation measures applicable to the areas where such species are migrating, such as in the high seas.

Mr. HOWARD: This, I agree with. But, failing any international conservation convention such as the halibut commission or the NORPAC commission if other nations exerted pressure or exploited the halibut fishery outside perhaps of our 12 mile fishing zone and presumably up north of Alaska with the determination that Japan has exploited that fishery in the eastern Bering sea then what Mr. Chapman is alleging might be true, that it would result in the depletion of these stocks.

Mr. ROBICHAUD: We have no absolute control on the high seas of this particular species of fish and we cannot apply alone conservation measures that will be worthwhile. There is no doubt in my mind about that.

Mr. HOWARD: As I say, Mr. Chapman's article is quite extensive, and I do not wish to go into it in too great detail. However, assuming that the baseline is going to be drawn west of Vancouver island and Queen Charlotte island, and enclosing those large bodies of water as an inland sea, what effect will the fisheries zone have upon conserving the herring stock off the west coast of Queen Charlotte island which now will be removed from the extension principle by the NORPAC treaty.

Mr. ROBICHAUD: If my information is correct—and I have every reason to believe it is—and if we establish the 12 mile fishing zone west of Vancouver island, and particularly west of Queen Charlotte island, we will include a large



part of the area where the herring fishing can be practised. So, it definitely will have some good effect in respect of the conservation of this particular fishery in an area which now comes under an international treaty. Instead of having protection three miles west of Queen Charlotte island, we will have a fishing zone extending to 12 miles. The fact that we will have this 12 mile zone protection also will add to conservation in respect of the salmon fishery.

Mr. HOWARD: This what the herring fishermen tell me; that is, that there would be protection for the herring stock because they are spread out when they are offshore, and they come closer together as they come inshore, and are thus more easy to catch.

I do not wish to be in the position of having Mr. MacLean, or someone else raising a point about proceeding too far afield and thus excluding other members.

The CHAIRMAN: We can come back to you. Mr. Cyr?

Mr. CYR: In clause 4 of this bill, we see that we will have a fishing zone, and Mr. Mullally a while ago mentioned something about the restrictions concerning seals, and I suppose undoubtedly this would also involve whales. We call this hunting. Is there no provision in this bill for control by the department of hunting?

Mr. ROBICHAUD: The fact that we have jurisdiction over a certain zone will give us the required authority.

Mr. Chairman, I would like to make clear that the seal operation comes under the jurisdiction of the Department of Fisheries. I have here a copy of the Fisheries Act, section 2(c), which reads:

"fish" includes shell fish, crustaceans and marine animals;

So, we have full jurisdiction.

The CHAIRMAN: I might add that the hunting of seals has been referred to as seal fishing from time immemorial, at least on the east coast.

Mr. MACLEAN (*Queens*): These are the very things which cause me to ask what is the definition of fishing in the treaty concerning France and the United States. We recognize that they may never try to hunt seals, but it is possible they may try to establish this as a treaty right?

Mr. ROBICHAUD: Part of the treaty with France reads as follows:

The French may therefore fish there for every kind of fish, including bait and also shell fish.

Then it carries on:

They may enter any port or harbour on the said coast and may there obtain supplies or bait and shelter on the same conditions as the inhabitants of Newfoundland, but they will remain subject to the local regulations in force; they may also fish at the mouths of the rivers, but without going beyond a straight line drawn between the two extremities of the banks, where the river enters the sea.

The treaty applies to limited areas. There is no mention of seals, although the Fisheries Act in the definition of fish mentions marine animals. According to the information I have from my officials, the treaty itself does not give the French any rights in respect of the killing of seals. Definitely they have not established historic rights, because they have not practised this operation in the past.

Mr. CHATTERTON: Coming back to the straight of Georgia, what is the position with regard to the international boundary through the Juan de Fuca straight, and the Gulf islands?



Mr. ROBICHAUD: There is a dividing line between the two countries.

Mr. CHATTERTON: What are our rights on that side of the boundary, or is there any understanding between our country and the United States?

Mr. ROBICHAUD: Are you referring to sport fishing or commercial fishing? The United States fishermen are subject to Canadian jurisdiction. Section 5 of the regulations under the Coastal Fisheries Protection Act reads:

United States sport fishing vessels may enter Canadian territorial waters for sport fishing subject to their compliance with the fisheries, customs and navigation laws of Canada.

Mr. CHATTERTON: That is for sport fishing?

Mr. ROBICHAUD: Yes.

Mr. CHATTERTON: Do we have the same rights on their side of the boundary by agreement or by understanding?

Mr. ROBICHAUD: There is no official agreement of which I know of, but it has been done by practice or understanding. I think this is an accepted fact. Perhaps we have established historic rights there the same as the United States claims it has in our own waters.

Mr. CHATTERTON: Then, what is the situation in respect of commercial fishing?

Mr. ROBICHAUD:

United States fishing vessels may pass through the Canadian territorial waters known as the "Inland Passage", British Columbia, upon the following conditions:

- (a) all fishing gear shall be removed from its normal position of operation on board the vessel and shall be stowed in such manner that it is not in readiness for fishing; and
- (b) the vessel shall comply with any directions given to it by a protection officer.

So, the U.S. fishermen are subject to our regulations.

Mr. CHATTERTON: That means through the strait of Juan de Fuca, also?

Mr. ROBICHAUD: No; the inside passage. I am told that in respect of the Juan Fuca straight, the United States fishermen have to fish on their own side of the boundary, and our Canadian fishermen have to fish on the Canadian side; that is, in respect of commercial fisheries.

Mr. MACLEAN (*Queens*): I would like to ask a few questions, Mr. Chairman, in a field in which it might be difficult for the minister to answer, because these are matters which are under negotiation at the present time. Of course, I recognize this difficulty on his part. In the case of the historic rights held by countries in what will be the exclusive fishing zone on the east coast, can the minister tell us anything about any proposals for a phasing out period, or anything of that nature, which may have been agreed upon?

Mr. ROBICHAUD: Mr. Chairman, I think that either the Secretary of State for External Affairs or myself have previously mentioned that negotiations were under way with a number of countries—and I believe we gave the name of those countries at the last meeting—suggesting that we were asking them to accept a phasing out period. I cannot give the full details in respect of what point the negotiations have reached; but the Secretary of State for External Affairs made it clear in his statement at the last meeting when he said, with respect to those countries which have fished in the waters concerned over a number of years—and he mentioned Portugal, Spain, Italy, Britain, Norway and Denmark—the basis of our proposal is the possibility of allowing a period for



adjusting their fishing operations so that their fishermen do not suffer any undue economic loss. Under such arrangements, fishing by these countries would continue for a period of time subject to no discriminatory Canadian regulations; but it would then cease, and the countries concerned no longer would be able to fish in the 12 mile zone.

Mr. MACLEAN (*Queens*): This brings me to my second question. What action has been taken to ensure that these countries, which have historic fishing rights inside what will be the exclusive fishing zone, do not expand their fishing operations to the type of fishing which they have not done, and for which they do not have historic rights. For example, at the European fisheries conference which took place recently in London, one of the articles dealt with specified specifically that countries having historic rights can exercise them only to the extent of the type of fishing which they had habitually carried out.

Mr. ROBICHAUD: Mr. Chairman, I can assure the members of the committee that in our negotiations with the countries I have just mentioned we have made very clear that their rights, or the continuance of those right for a limited period, will only apply in respect of areas and for species for which such operations have taken place up until now. That has been made very clear in our negotiations.

Mr. MACLEAN (*Queens*): So, the nondiscriminatory regulations, therefore, refer only to the types of fishing they originally had carried on.

Mr. ROBICHAUD: This is correct.

Mr. BASFORD: Mr. Howard asked most of the questions I intended to ask. It has been stated that the act provide immediate protection for the herring being caught off Queen Charlotte island. I would like to refer briefly to page 5 of the statement which has been distributed, concerning the rivers flowing from Canada to the Alaskan panhandle. I wonder how much money has been spent by the Canadian authorities on conservation in these rivers?

Mr. ROBICHAUD: Mr. Chairman, I understand the question applies to that particular area only?

Mr. BASFORD: Yes.

Mr. ROBICHAUD: In that particular area I am informed we have not been spending substantial amounts of money for conservation or research, although we have made surveys in the past in order to have a better knowledge or a better indication of what was taking place in that particular area.

Mr. BASFORD: Are these important spawning rivers?

Mr. ROBICHAUD: It is a matter of opinion what is meant by important. They are not as important as the main rivers in British Columbia, such as the Skeena and others; but there is some spawning going on in these particular rivers.

Mr. BASFORD: Do I take it from the fact that a great deal of money has not not been spent that this indicates they are not at the present time regarded as particularly important.

Mr. ROBICHAUD: I think your comments are justified.

Mr. BARNETT: Mr. Chairman, perhaps at this point I could suggest that the statement on foreign fishing off Canadian coasts which was distributed by the Department of Fisheries might be included in today's Minutes of Proceedings and Evidence. I have a few questions I would like to ask for clarification in respect of the statements in this document.

The CHAIRMAN: It has been suggested that the document under discussion be included in today's Minutes of Proceedings and Evidence. Is that agreeable?

Mr. ROBICHAUD: Mr. Chairman, we made it clear when those figures were requested by Mr. Howard at the last meeting that in some instances we might



be in a position only to give estimates. We have used figures produced by other countries. If these figures were not taken from what are recognized as official documents by other countries and we use them, they could be objected to. Although, to the best of our knowledge—that is to the best knowledge of my officials—these figures are as accurate as we could produce, it is doubtful that they could be made part of an official document such as the Minutes of Proceedings and Evidence of this committee.

Mr. BARNETT: On this point, perusal of the document suggests to me that the document itself makes it quite clear that these only are estimated figures in certain instances. It seems to me, if we are going to be allowed to ask questions relating to what is in the document, so long as it is clearly understood these are unofficial or semi-official estimates, it would be in order to include them.

Mr. ROBICHAUD: Following the comments I have just made, and on the understanding that the figures are produced as was stated—that is, some of them being estimates, and to the best of our knowledge correct—we have no objection to their being appended to the report of this meeting; but only under this very clear understanding.

Mr. BARNETT: I think Mr. Basford indicated he would be willing to second the motion if I moved it. I would be prepared to make the motion.

The CHAIRMAN: It is moved by Mr. Barnett, seconded by Mr. Basford, that the document from the Department of Fisheries entitled Statement on Foreign Fishing off Canadian Coasts be appended to today's Minutes of Proceedings and Evidence, with the clear understanding that the figures included in it are estimates and not official figures. Is that correct?

Mr. ROBICHAUD: Some of the figures are based on estimates. No separate statistics have been kept by anyone which would differentiate between the catch inside a specific area and the catch outside; that is to say, for instance inside a 12 mile zone which did not exist before, and which will exist provided this bill is accepted.

The CHAIRMAN: Would you incorporate that in your motion?

Mr. BARNETT: Yes. I would move, on the terms or understanding stated by the minister, that this document be appended to today's Minutes of Proceedings and Evidence.

The CHAIRMAN: Is that agreeable to the seconder?

Mr. BASFORD: Yes.

The CHAIRMAN: All those in favour of the motion? All those against? Motion agreed to.

Mr. BARNETT: Mr. Chairman, at the outset I might say that from the quick look I have been able to give this document since it was distributed, it does seem that the statement with reference to the Pacific coast makes fairly clear some of the extent of the west coast fishery which lies within the proposed 12 mile zone. In the section which deals with the Atlantic coast fishery, where the estimated catches of the various fishing nations are set out—France, Portugal, Spain, and Italy—the phrase which is used seems to be the same in all cases. For example, with reference to Portugal it says:

The Portuguese catch in the northwest Atlantic was 217,615 tons of groundfish mostly cod in 1962.

For clarification I would like to know whether that represents the total catch in the west Atlantic area, both within the proposed fishing zones and on the high seas.

Mr. ROBICHAUD: Mr. Chairman, it does represent the total catch in the northwest Atlantic area. This is why we mentioned yesterday, when we were



asked to produce such figures, that in some areas we could not differentiate between the quantity of fish caught inside the 12 mile limit or the quantity caught outside because foreign vessels have been allowed to fish up to three miles from our shore. And, in certain periods of the year, for example from January to April, some of the Portuguese operations, take place even inside gulf of St. Lawrence waters. All we have is the total figure for their catch for a specific period. We do not have the details showing what quantity was caught, say, within 10 or 12 miles because anything outside of three miles was considered as international waters.

Mr. BARNETT: On page 4 of the statement it says that most of the foreign fishing within 12 miles of the Canadian coast of the Atlantic takes place in the region of the gulf of St. Lawrence and off Newfoundland. What I would like to know is this. Does that statement represent the most definitive knowledge that we have of the situation in the north west Atlantic, taken in conjunction with the estimated figures given in respect of the catch of various nations. In other words, am I correct in assuming that we cannot get anything more definite in respect of the proportion of the total catches which are inside the gulf of St. Lawrence than that statement which is made there.

Mr. ROBICHAUD: Yes, Mr. Chairman, that is a right assumption. We know that those countries mentioned above, or most of them, do operate for certain periods of the year in some years, maybe not every year, inside of the gulf of St. Lawrence. This applies particularly to Portuguese, Spanish, French and American fishermen. We have no figures here showing the exact quantity of their total catch which was taken inside or outside gulf of St. Lawrence water.

Mr. BARNETT: Then, in respect of the two nations which have treaty rights the statement is made that in the case of the United States in the past 50 years little use has been made by them of these treaty rights and, in respect of France, it says that since World War II French fishermen have made little use of these rights. Have we any statistics of the catch made by either French or American fishermen inside the existing territorial waters under their treaty rights?

Mr. ROBICHAUD: In our negotiations with France and the United States this is the type of information we have requested so that we might be in a better position to assess their position. We do not have such information in detail but we have asked those countries to supply us with it. If they are claiming certain rights, we want to know exactly what these are so that we can make a study of their claim and find out if they are justified. This may not apply particularly to France but it would to the other countries who have no treaty rights.

Mr. BARNETT: In other words, this statement in respect of little use having been made is simply a general statement based on information.

Mr. ROBICHAUD: It is our interpretation.

Mr. BARNETT: Yes, in respect of the areas in which fishing activity has been carried on.

Mr. ROBICHAUD: Yes.

The CHAIRMAN: Would you proceed, Mr. Patterson.

Mr. PATTERSON: Mr. Chairman, along these same lines and in respect of the fact that nations having treaty rights are not using them to any great extent I would like to ask the minister if any consideration has been given to seeking an agreement with these nations relating their catch in the future to the present catch or an average over a period of time in order that they will not extend their operations to a greater extent in the future.

Mr. ROBICHAUD: Again, if I could answer this question by going as far as I would want to go at this time when negotiations are still underway, I might say we have discussed such aspects of the situation.

The CHAIRMAN: Mr. MacLean.



Mr. MACLEAN (*Queens*): Mr. Chairman, I have a couple of questions I would like to ask.

Since most of the nations which claim historic fishing rights on Canada's east coast recently have become signatories to the European fisheries conference, in which case they usually agree to terminate immediately any fishing in each other's waters which are within the inner six miles, with a phasing out program for the outer six miles, has any consideration been given to an agreement of this sort in the negotiations which would exclude at once those nations which have historic fishing rights from at least part of this new exclusion zone provided.

Mr. ROBICHAUD: The situation of those 13 countries who are taking part in the European fisheries convention is altogether different from that of the countries interested in our present negotiations. It is true that those countries have agreed to stay outside of the inner six miles but at the same time they also have permission to continue fishing forever in the outer six miles. The situation is so different because these countries, are fishing in areas where the same rights or privileges apply to all these countries. In other words they fish within the same waters while the countries we are dealing with here under the present negotiations do fish in Canadian waters where they claim historic rights, but our own Canadian fishermen are not carrying on similar operations in the waters controlled by these particular countries. The only exception is that of the United States.

Mr. MACLEAN (*Queens*): My second question is with regard to waters which will be included as a result of this proposed legislation; that is, in respect of bodies of water which will come inside the exclusive fishing zones of Canada or become territorial waters, and I believe that a considerable area of these waters is now within the I.C.N.A.F. areas. What is the procedure by which these are removed from I.C.N.A.F. jurisdiction, or is this automatic on our declaring these to be exclusive fishing zones?

Mr. ROBICHAUD: The same provision applies here as I stated earlier in connection with the north Pacific treaty. The area covered under I.C.N.A.F., if I could use that expression is presently outside the territorial waters, which is outside the 3 mile limit. Once a fishing zone is established it will be outside of that fishing zone, and there is provision in I.C.N.A.F. to cover such situations.

I also understand that after Newfoundland joined with Canada that this provision was included.

Mr. MACLEAN (*Queens*): Yes, I understand. I just wanted to clear that up for the benefit of the members of the committee.

Can the minister state what actions under this legislation are in effect actions which might be described as unilateral? I note in the bill there is provision for an exclusive fishing zone. Is it the intention of the government to enforce its will where negotiations break down in respect of other countries.

Mr. ROBICHAUD: Mr. Chairman, when the Prime Minister made the announcement in the House of Commons on January 4 last year that it was the intention of the government to proceed with the establishment of a 12 mile fishing zone he made it very clear that this will only be done after negotiations or discussions with the countries involved. Canada is taking, by this legislation, a unilateral position, in establishing a fishing zone. It is also taking a unilateral position in asking certain countries who claim historic rights to gradually phase out their operations in those areas in respect of those species of fish on which they claim such rights. There is no doubt that it is the intention of the government to proceed accordingly.

Mr. MACLEAN (*Queens*): However, I think there is a confusion in terms here when the average individual man on the street is told that something



has been done or is going to be done unilaterally. In his mind, he does not visualize unilateral in this respect. All I am trying to say is there is virtually no difference between the policy of the present government and previous governments since this question became an active one; it is a matter of getting what we can for ourselves in a reasonable fashion and, of course, stating what we consider to be our rights. I agree with that entirely but at the same time even rights that are established under international treaties have to be ratified by a government and, in my judgment, this bill is, in effect, only a permissive one which, in advance, gives approval for whatever negotiations the government of the day is able to carry on successfully. Perhaps this is a matter which need not take up much time in the committee. But I think in the past there has been a considerable splitting of meanings or hairs in so far as what has been meant and what the objectives of succeeding governments have been.

I think, as a matter of fact, that we hope in the near future we will reach a culmination of the negotiations and efforts that have been going on for at least ten years. By its very nature, this process is a fairly long one, and whatever advantage is achieved in the end is merely the fruition of the negotiations which have been going on for a number of years. For example, I think it hardly would be possible for us to take the action which we are taking now, at least with a clear conscience, if the processes of the past had not been gone through. I refer to the Geneva conferences and other efforts which have been made in the past. It is only since these failed, narrowly, that we then have to go to another type of effort to establish certain rights which we as a nation consider really to be ours. I do not know whether or not the minister would agree with me on that.

Away back at the time that Newfoundland joined confederation, the prime minister of the day made a statement something to the effect that we hoped as a country to contend successfully that the gulf of St. Lawrence would be national waters. That is the build-up to the program by which we hope to codify what we have achieved.

Mr. ROBICHAUD: Mr. Chairman, if I may comment on the statement just made by Mr. MacLean, I might say that I do not wish to start an argument on the content of his statement; but, the facts are that Canada has in the past endeavoured to reach a multilateral agreement in respect of the 12 mile limit. Attempts along these lines have been made by previous governments and two conferences have been held in Geneva. As a result, Canada was unable to obtain in agreement with other countries the consent to establish a 12 mile fishing zone.

The position now taken by the government is unilateral in so far as it does establish a 12 mile fishing zone, regardless of the outcome of the negotiations which now are taking place.

The action being taken by the government at this time is based on international practice. It is the desire of the government to continue negotiations even after the fishing zone will have been established if this bill receives the approval of parliament. I do not know whether or not I can add anything more at this time. I want to make it very clear that it is a unilateral position vis-à-vis the whole world so far as the establishment of a fishing zone is concerned.

Mr. STEWART: On a point of order, Mr. Chairman, I have noticed at the meeting this morning and at previous meetings that we tend in this committee, sometimes, to make statements instead of asking questions of the witnesses. I am not sure whether what the minister has said just now has been very useful to the committee, and I am not sure whether the statement which prompted what he said just now has been very useful to the committee.

My question to you, Mr. Chairman, is one prompted by a desire for information. In this committee, should we address questions to the witnesses who



are appearing here, or should we be allowed more latitude in the making of statements, and so on?

The CHAIRMAN: Well, Dr. Stewart, I do not wish to restrict discussion too much. So long as the questions are not too lengthy or too positive in the way of statements, I think they should be allowed. However, at the same time, I think the members should endeavour to confine themselves as much as possible to questions for the minister, and the other witnesses to answer.

Mr. ROBICHAUD: Perhaps I may be allowed to add something to what I just said in reply to Mr. MacLean. It always has been an international practice and it is desirable to have the acquiescence of the countries involved in matters like this, although it will not affect the decision being taken by the government.

Mr. MACLEAN (*Queens*): Mr. Chairman, I would just like to say that I did not want to offend the sensibilities of any members of the committee who are striving to obtain factual information. My question was asked only in an attempt to clarify the meaning of what we are doing. I think the views of the minister and my own on this matter coincide very substantially, and almost completely.

The CHAIRMAN: Thank you, Mr. MacLean.

Mr. CHATTERTON: At the last meeting I think the minister said that as soon as clause 4 is proclaimed orders in council will be passed in respect to the Coastal Fisheries Protection Act which will restore the position of the countries which have certain rights, and that so far as those countries are concerned there will be no change until the rest of the bill is proclaimed and after agreement has been reached with these various countries. Is that correct?

Mr. ROBICHAUD: I said there was a possibility that we might have to take certain action under the coastal fisheries protection act in order to allow those countries who claim historical rights to carry on their operations; but this will not apply to countries which are not claiming such rights.

Mr. CHATTERTON: I thought you said you intend to pass these orders in council and that they would apply to those countries which do claim such rights.

Mr. ROBICHAUD: I think I said it was possible that we may have to pass such orders in council in order to justify such operations as required by our own Canadian fisheries regulations. Such orders in council would be of a temporary nature, pending agreement in our present negotiations. Once agreement is reached, then the agreement by itself will have as much jurisdiction as would an order in council permitting fishing in specific areas.

Mr. CHATTERTON: Then it is quite likely that the position of these countries which claim such rights will not be changed from what it is now by virtue of the orders in council which you mention.

Mr. ROBICHAUD: It is possible. We would make every effort to obtain the assurance of those countries that they would abide by our own Canadian regulations and if we pass regulations or restrictions in respect of certain waters within the 12 mile zone we expect those countries respect such regulations.

Mr. McLEAN (*Charlotte*): Mr. Chairman, the state of Maine enforces certain regulations at the present time in respect of the taking of small herring during certain months. They forbid the taking of these small fish within the three mile limit. Would there be reciprocity in respect of this 12 mile limit? Would the United States be likely to extend their own three miles to 12 miles? We fish from their waters and if we are outside the three mile limit, we are all right; but if they extend it to the 12 mile limit it would apply.

Mr. ROBICHAUD: Under the present circumstances the United States has a three mile limit. Therefore, they have a right to have regulations of their



own, whether for conservation measures or otherwise, to regulate the fisheries inside those three miles. This is what they are doing now. They have a specific season or time of the year in which they allow the catching of sardines inside the three mile limit, and they have a right to do so the same as we in Canada have a right to apply similar regulations inside the three mile limit.

When this 12 mile limit will be enforced we will be provided with the necessary authority to enforce such regulations within the 12 mile zone. If the United States should decide some day to adopt a similar policy in respect of a 12 mile fishing zone and not in respect of a three mile limit as they do now have, we will in our negotiations suggest there be no discrimination toward the Canadian fisherman. Again this is a matter which is being discussed with the United States authorities.

The CHAIRMAN: Mr. Howard.

Mr. HOWARD: Mr. Chairman, I wonder whether I could go back to this statement again and pick it up in respect of the west coast. We seem to be oscillating between the two coasts of the country. In the statement on foreign fishing off Canadian coasts the point is made that on the Pacific coast there is no so called reciprocity between Canadian and United States fishermen fishing in each other's waters or in waters off each other's coasts, except so far as the halibut is concerned. In respect of halibut the catch is about 50-50. The United States catch in Canadian waters in the proposed 12 mile zone is about one million pounds and the Canadian catch is 1.2 million pounds in the 12 mile zone off Alaska. The total United States catch beyond the 12 mile limit was in the neighbourhood of 41,900,000 pounds. For what year is this?

Mr. ROBICHAUD: In 1962.

Mr. HOWARD: All of this halibut fishery is subject to the International Pacific Halibut Commission?

Mr. ROBICHAUD: Yes.

Mr. HOWARD: In the article I read earlier by Mr. Chapman, there were references to the distance that the halibut migrated, and they ranged up to 2,000 miles. I do not know just where this area of migration is, and I do not know whether or not you would be able to indicate where it is. I would like to read briefly from a news release of the International Pacific Halibut Commission dated June 4, which seems to be sort of an anniversary date from what the Prime Minister stated in the house last year.

Perhaps I could read briefly from it:

After reviewing the situation in Bering sea the commission decided to convey to the governments of Canada and the United States its deep concern regarding the condition of the fishery in Bering sea and its conclusion that unless there is marked improvement in the halibut stocks it will be necessary to recommend closure of the catch-limit area to halibut fishing in 1965.

The commission intends to keep the fishery in this area under careful review during the remainder of the 1964 season, and if conditions continue to deteriorate, more immediate action may be required.

It was also decided that in view of the conditions prevailing on other sections of the Pacific coast, particularly in area 2, close surveillance of the fishery will be maintained in the event further restrictions in those areas are required.

Now, it was just recently—you will know better than I the exact date—that Japan started to fish in the eastern Bering sea for halibut as a result of a recommendation of the NORPAC commission in 1961 or, perhaps, it was 1962. I am not sure of the exact time but it was within the last couple of years.



I think perhaps what the Pacific halibut commission has described is that the halibut fishery in the Bering sea is deteriorating very badly and they foresee the possibility of closures there which, incidentally, would only be closures so far as Canadian and American fishermen are concerned and not so far as the Japanese fishermen are concerned.

Mr. ROBICHAUD: Because Japan and Russia are not signatories to the international Pacific halibut commission.

Mr. HOWARD: Is Japan a signatory to the international Pacific halibut commission?

Mr. ROBICHAUD: No.

Mr. HOWARD: If there is a closure in the Bering sea, as they contemplate, then it would only apply to Canadian and American fishermen because we are the only two nations signatory to the halibut commission; it will not apply to the Japanese because they are not a signatory to this commission and it will not apply to the Soviet union because they are not a signatory to it nor to the NORPAC agreement by virtue of which Japan has been fishing in the eastern Bering sea within the last one or two years.

What effect does this exploitation by the Japanese and Soviet union, as well as other fisheries in the Bering sea, have on the halibut fishery stocks further south.

Mr. ROBICHAUD: Well, Mr. Chairman, there again we are going quite far afield.

Mr. HOWARD: I do not know whether it is south or east.

Mr. ROBICHAUD: I think we are going beyond the terms of reference which are now before us.

An answer could be provided but I do not know whether it would be satisfactory.

It is true that in 1963 the Japanese were allowed to fish a limited quantity of halibut in the east Bering sea, and the statement which has just been read by Mr. Howard has to do with the current operation, that is, with the 1964 halibut fishery. I do not personally believe that any scientist could justify the small catch of halibut in 1963 by the slight increase that was allowed last year in the eastern Bering sea.

Reference has been made to the operation of the Japanese and Soviet union fishermen in certain areas of the high seas. Personally, I would be inclined to believe that these two particular operations may have much more to do for the present situation than the relaxation that was allowed last year under the north Pacific treaty. Now, again it is only a personal opinion, but an adequate and complete answer to the question just asked certainly would require more research, study or attention by our scientists.

Mr. HOWARD: Then at the moment you do not know. Is that correct?

Mr. ROBICHAUD: Yes, that is right.

Mr. HOWARD: But, it is a fact that this extensive exploitation of the halibut fishery by the Soviet union and Japan—by virtue of what does not matter—in the Bering sea is the reason for the decline and the deterioration of the stocks. If that is not so then I misunderstood you.

Mr. ROBICHAUD: No, I did not say that. I said that it could not. The fact that there was some relaxation in 1963 of the operation of the Japanese fishermen on the east Bering sea cannot be used as the main reason for the small catch of halibut this year. This could result from large halibut fishing operations by both countries, Japan and the Soviet union, in some other areas because, as you have stated, the halibut do migrate, and they migrate great distances. And, if we took into consideration the additional quantity of halibut that was allowed to be caught by the Japanese fishermen in the east Bering



sea last year we could not use this as the main argument to justify the small catch this year.

The CHAIRMAN: I was going to suggest that we should confine ourselves to the 12 mile limit except in those cases where there is a direct association.

Mr. HOWARD: This is what I am trying to do because in one respect I think there is an association, especially with fish which migrate great distances. I am speaking from a conservation point of view and have been referring to particular high sea fisheries of other nations and the impact they have on our fisheries. I do not want to get into the detailed operation under the halibut commission or the NORPAC commission. All I am trying to bring out is the effect on fishery stocks by other countries who, incidentally, happen to be signatories to other conventions. That is all I am trying to do at the moment, Mr. Chairman. I think it is clear in substance. The minister says he does not know and the biologists do not know the facts in respect of this.

Mr. ROBICHAUD: This is a very technical question.

Mr. HOWARD: On page 2 of the statement it refers to ground fish and, under that heading, it says that the trawl catches of ground fish by the United States off the Canadian shores in the 3 to 12 mile zone in 1962 would not exceed 18 million pounds.

In order to bring this into some balance—and, I assume, this is an estimate because there was no 12 mile zone to declare in or out of until just recently—there is a Pacific marine fisheries commission of the United States embracing, I think, the states of Washington, Oregon, and California. This commission makes a report, the latest of which I have is for the year 1961. I obtained this from the library. I was wondering if I could put a couple of figures from this report on the record in order to compare it with this 18 million pound estimate. I am not contradicting this figure but I merely want to put these on the record to see in detail what this means.

The Pacific marine fisheries commission of the United States carved up the coast from some distance below San Francisco up to the southern portion of the Alaskan border; they divided it into areas and this lists the catch of fish from those areas.

In British Columbia the Pacific marine fisheries commission has carved the British Columbia coastal area into seven separate fishery areas for reporting catches. I have here the total amount of ground fish by otter trawl landings in six of those areas. I only say six because there is one in which I cannot relate the definition of one area to what is shown on a map, so I will exclude that one. Of the six areas which the United States have listed for British Columbia the total catch in those waters for 1960 was 44 million and 60 pounds of otter trawl fish—that is, bottom fish, sole, flat fish, cod and the like. The total United States catch in the entire coastal area from south of San Francisco to the Alaskan area for that year was 131,226,000 pounds. So, in effect, 33 per cent of the United States otter trawl catch of bottom fish was caught in areas off the British Columbia coast. So, as I say, this 33 per cent represents 44 million pounds of their total catch. I think it is worthwhile to look at that figure and to see how it relates to the estimate of 18 million pounds which is given as their estimate for the year 1962. Am I correct in that?

Mr. ROBICHAUD: If I may at this time make a remark in this connection, the figures quoted by the document produced by Mr. Howard relate to the total ground fish catch in certain areas while the one supplied this morning by the department is in the 3 to 12 mile zone.

Mr. HOWARD: That is what I said.

Mr. ROBICHAUD: So, there is quite a difference if you take the full catch and relate it to the catch in the 3 to 12 mile zone.



Mr. HOWARD: This is what I said. I was not trying to say the 18 million pound figure was incorrect because it does apply only to the 12 mile zone and the Pacific marine fisheries commission figures are for the entire area measured outward from 3 miles because they do not fish within our present territorial sea.

Mr. ROBICHAUD: I just wanted to make that clear.

Mr. HOWARD: This is the relationship.

Mr. BARNETT: Mr. Chairman, I was wondering whether at this point the minister perhaps could give us a little further clarification in respect of just what area is included in the 3 to 12 mile zone which covers these 18 million pounds? Is this area calculated on the basis of what would be included in a 12 mile zone following the existing boundary of our territorial waters?

Mr. ROBICHAUD: Yes. We have used the existing boundary, not the new boundary which will come into effect after this 12 mile fishing zone is established.

The CHAIRMAN: Would you proceed now, Mr. Crouse.

Mr. CROUSE: Mr. Chairman, I would like to revert now to the east coast, if I may.

Mr. HOWARD: I was just getting part way along a good argument which I was developing.

Mr. CROUSE: Well, I will not be too long and then I will give the member from the west coast an opportunity to continue. But, reverting to the east coast I would like to pose one or two questions which, to my mind, are related to some of the statements which the minister has made regarding the establishment of this 12 mile limit.

I believe it is generally agreed or understood that the geographical coordinates will be established on the basis of the proposal put forth by the fisheries council on January 28, 1963.

In referring to that proposal, it is suggested that the baselines, for example, be drawn from cape North to Port aux Basques, which seals off one entrance to the gulf of St. Lawrence, and one of the other lines would seal off the strait of Belle Isle. Now, this may not be a fair question to put to the minister but I am wondering what effect this will have on international shipping, for example. As you know, there are a large number of cruise ships which operate in the gulf of St. Lawrence and, at the present time, they have the right to open up their bars and other facilities, providing tax free amenities to their guests. Once those lines are drawn these will all become the national waters of Canada and it will mean that their operations would be curtailed. I am wondering if representations have been made to the minister by the shipping companies in regard to this possibility?

Mr. ROBICHAUD: Mr. Chairman, I cannot give all the details which might be provided in reply to that question. But, I want to make it clear that the only area which could affect shipping—and this is a legal question which I do not pretend to be able to answer fully—would be that area affected by the change in the territorial sea. The territorial sea, instead of following the sinuosity of the coast will be established from headland to headland. So, there will be a change of application because these areas will become internal waters; instead of following the sinuosity of the coast it will follow the headland to headland principle.

Mr. CROUSE: The reason I raised this point is because once the gulf of St. Lawrence becomes national waters these cruise ships will be unable to open up their amenities to their passengers until they are well beyond the 3 mile baselines, which will take them out into the north Atlantic. I think this would



have some effect on the passengers and upon their receipts and incomes, and I was just wondering if this question has been raised?

Mr. ROBICHAUD: Mr. Chairman, this question certainly does not have anything to do with the fishery operation by itself, but it is a matter which concerns national revenue and can be looked into by that department. But, we have made it clear in our discussions that no interference would be made to shipping.

Mr. CROUSE: They will have the free right of passage but once the changes are made in these baselines and in your territorial seas it will mean that cruise ships, for example, leaving Montreal or Quebec will be in national waters until they pass these baselines. I should think this would make quite a change in their revenue during their long cruise down the St. Lawrence.

As I say, this may not be a fair question for the minister of fisheries to answer; perhaps it should be directed to one of the officials of the national revenue department. But, as I say, it will have an effect on the revenue accruing to these shipping lines and, conversely, to the Canadian government.

Mr. ROBICHAUD: The government is fully aware that such conditions could exist and I again emphasize the fact that it has nothing to do with the fisheries operation. If there was any problem in so far as shipping is concerned it certainly would be looked into by the national revenue department. It is not our intention to interfere whatsoever in so far as shipping is concerned.

Mr. CROUSE: I agree with the minister when he says that it does not have any relation to fisheries. But, it does have a relation to the bill and it implies that this bill has much greater power than we perhaps are aware of at the present time.

Mr. ROBICHAUD: I would like to use one of the statements made. I am getting some information now which is in line with what I was going to say. When a ship is sailing from Montreal to Quebec, it is definitely in inland waters, and it is given permission, as the hon. member has suggested, to open the bar and sail on as though it were in external waters. This is just a matter of regulations, and the Department of National Revenue has already got the authority to look after such situations as this.

Mr. STEWART: I was going to ask whether perhaps an official from the Department of Transport would have something to say on this, but the minister, with his long knowledge of cruising down the St. Lawrence, has clarified the problem.

Mr. ROBICHAUD: You do not mean I have used the bar I hope.

Mr. CROUSE: There is just one other point. When this bill becomes law, there will be considerable additional expense involved for Canada in establishing new navigational aids, such as buoys and the necessary navigational aids for shipping. Would it be an expense carried out by the Department of Transport or by the Department of Fisheries?

Mr. ROBICHAUD: By the Department of Transport. However, I do not believe the additional expenditures involved would be substantial because right now there is no such thing as specific markers or navigational aids or buoys to mark the three mile limit. It is up to the master of a ship to determine if he is inside or outside a certain area. I am told by officials of the Department of Transport that they do not expect to have additional expenses involved. They are looking into it, but in so far as they can ascertain now, there is no additional expenditure in sight.

Mr. CROUSE: Am I to understand that there will not be any markings laid down for the guidance of fishermen so that they may be made aware where Canada's territorial waters are in which they may freely fish? Is that the understanding I get from the minister's answer? If it is, then, in my opinion,



it will be an exceedingly difficult bill to enforce, and foreign fishermen may unintentionally find themselves in trouble with Canadian authorities because we have not clearly defined the areas that are national and those that are high seas.

Mr. ROBICHAUD: Mr. Chairman, we will naturally be producing charts showing the areas that will be recognized as internal waters, but we already have, as I have just said, a three mile limit, and foreign vessels have to abide by this regulation. We have no specific markers to indicate where the three mile limit is. The same would apply to the twelve mile limit. The master of a ship will determine at what distance he is from the shore. He will have available to him charts which will show where the territorial line is supposed to be, and it will not be more difficult to abide by a twelve mile limit than it is presently to abide by the three mile limit.

Mr. MACLEAN (*Queens*): Mr. Chairman, I wish to ask a supplementary question. At the present time the baseline follows the sinuosities of the coast, and therefore I would imagine it would be easier for a ship to determine whether or not it is three miles from that kind of a baseline than to determine whether it is three miles from straight baselines.

This brings me to a question asked yesterday. I wonder if the minister or some official would be in a position to make any statement, but it seems to me that the provision of the bill which gives power to the governor in council to determine the geographical co-ordinate is extremely general in its terms, such as the statement that any of these co-ordinates have to be on land or at the extremity of headland or at the low water mark, or whatever the traditional position is for them, in establishing co-ordinates. I am just wondering whether it would be possible to incorporate in the bill, without limiting its effect in any way, some limitation on where these geographical co-ordinates are to be placed. I am fully aware that the government has in its own mind a notion of roughly where these co-ordinates will be placed, but I am thinking of permanent legislation, and I think it is bad legislation that gives powers which are far beyond the requirements of what is in the mind at the present time. I know this is far-fetched, but if this bill is passed as it is, some future government—if the minister has no doubts about the present one—let us say, for the sake, of argument, may decide to establish some of these co-ordinates well out to sea, and there is nothing in the bill to prevent it. From a purely legislative point of view I wonder if the minister might have anything to say about it. I am not suggesting anything that would limit the proposed action of the government at the present time.

Mr. ROBICHAUD: In reply I wish first to say that, as I have said earlier, charts will be supplied showing the co-ordinates. From the information which we have from people with experience it appears that the straight line which will be established, based on points from headland to headland, will make it much easier for a master of a ship to follow than the present line based on sinuosities of the shore.

Now, I understand the point raised by Mr. MacLean but I want to make it clear that the co-ordinates which will be established by order in council will have to be based on international practice which clearly states that such co-ordinates establishing a line from headland to headland have to be based on a point—I do not know whether I am using the right expression—located on land. You cannot choose a section at sea and say the baseline is going to be run from this particular point. No matter whether it is the present government or any future government, no government would have the authority or the right to establish such points unless it is in accordance with international practice. Otherwise, it will be objected to by all countries, because such points will apply to every country and be contrary to international practice.



Mr. MACLEAN (*Queens*): Mr. Chairman, it would appear to me that what the minister is saying is that in the future no government will take any action on any of these matters. I am fully aware of what the international practice is, but there is no very accurate codification of what international law is. It is an accretion of practices. Even so, admitting what the minister has said, my point is that this not specified in the bill. I think it would have considerable force in international law if there was something in the bill to indicate it. I know the Secretary of State for External Affairs has made his statement on behalf of the government, which is very helpful, but I think it would be even better if there were some such general statement, if a suitable one can be drafted, and I admit the difficulties of drafting, which would indicate that it is not the intention to establish any of these co-ordinates in a manner which would fly in the face of international practice, might be very great.

Mr. ROBICHAUD: Mr. Chairman, I may add we have looked into this and we have studied proposals made by other states. In no case have such states which have introduced the twelve mile limit defined such co-ordinates in their legislation. Their own legislation was similar to the one which we are introducing here today. Subsection (d) of the Coastal Fisheries Protection Act gives power to the governor in council to make regulations:

(d) designating territorial waters of Canada for the purposes of this act.

In fact, the present Coastal Fisheries Protection Act is at present giving the government much more power than we are asking for in the present bill, and this section of the Coastal Fisheries Protection Act is being repealed by the present bill which gives power to draw baselines in much narrower terms than the present one.

Mr. MACLEAN (*Queens*): Mr. Chairman, I do not want to take up the time of the committee unduly in this regard, but I was not suggesting that the co-ordinates themselves should be stipulated in the bill; I was simply making a statement to the effect that they should be within certain limits, and that this be included in the bill. I am not sure that I have the latest version of the fisheries protection act, but it specifies that:

“Canadian territorial waters” means any waters designated by any act of the parliament of Canada or by the governor in council as the territorial waters of Canada, or any waters not so designated being within three marine miles of any of the coasts, bays, creeks, or harbours of Canada, and includes the inland waters of Canada.

It is true that the first section would appear to give wide powers to establish waters that are not within three miles of the coast as territorial waters, but I think the implication is there that the baseline follows the sinuosities of the coast under the present set-up. What I had in mind is that it might be the part of wisdom to have some reasonable indication on the limits within which these geographical co-ordinates might be drawn. However, I do not want to press the matter further.

Mr. ROBICHAUD: Mr. Chairman, again I may add for the satisfaction of the members, that our legal advisers have looked into this possibility and I am told that they just do not see how it could be done, they do not see their way clear to legally including such a provision in the present bill. They have looked into this possibility, and this is the advice we have received.

Mr. CHATTERTON: Would it be feasible to refer to the decision of the international courts of justice, say, for instance, in the Anglo-Norwegian case? Would it not be feasible?

Mr. ROBICHAUD: From what I am told, this possibility was looked into and we have been advised that it would not be proper to include this in the



bill, that it would make our position much weaker if we had to bring into court certain violations of this nature.

Mr. HOWARD: Mr. Chairman, I wonder whether I could go back to groundfish and to trawl caught salmon of the west coast. Do you have any knowledge of the value of the estimated 18 million pounds of groundfish that are likely to be caught in that area? Is there any value attached to it?

Mr. ROBICHAUD: The estimate is in the vicinity of \$1 million.

Mr. HOWARD: Likewise, do you have a value attached—

Mr. BASFORD: Mr. Chairman, I do not know whether Mr. Howard realizes this or not but he is driving away our quorum.

Mr. MACLEAN (*Queens*): I am sorry, I have another committee meeting which I have to attend.

The CHAIRMAN: We just have exactly a quorum.

Mr. MACLEAN (*Queens*): I will stay until someone else comes in.

Mr. CYR: Can we fix a certain hour for adjournment?

The CHAIRMAN: We had intended, if you recall, going on until one o'clock, but if the committee feels that this cannot be done, perhaps we should fix another time.

Mr. HOWARD: I think 12 o'clock would be better.

The CHAIRMAN: That is completely up to the committee.

Mr. HOWARD: I do not want to interrupt myself on this thing I am trying to get at, but I move we adjourn at 12 o'clock.

The CHAIRMAN: Perhaps I might ask if it is the wish of the committee to come back this afternoon if this is not finished by 12 o'clock. I think Mr. MacLean would like to leave now.

Mr. HOWARD: For my own sake this afternoon might very well be part of the motion. It is hard to say. We have interim supply which we are scheduled to deal with. Perhaps we might even deal with the North Pacific Fisheries Commission, which we cannot deal with here, and then the minister and the rest of us would have to be in the house.

The CHAIRMAN: Does anyone second Mr. Howard's motion that we conclude at 12 o'clock?

Mr. BASFORD: Will we not be finished with the minister at 12 o'clock? I think Mr. Howard is the only one who has any more questions.

Mr. MACLEAN (*Queens*): I think it would be feasible to adjourn at 12 o'clock.

Mr. BARNETT: Whether it depends on Mr. Basford whether we are finished with the minister or not is perhaps questionable. I understood from earlier statements made both by Mr. Robichaud and Mr. Martin that they would be willing to attend meetings of the committee from time to time as required. I have some questions which I would like to ask with particular reference to the treaty situation, which might not necessarily be properly dealt with by Mr. Robichaud, though he seems to be getting on quite well in that field.

The CHAIRMAN: It now is 20 minutes to 12. Does anyone second Mr. Howard's motion that we adjourn at 12 o'clock?

Mr. BARNETT: I will second the motion.

Motion agreed to.

Mr. HOWARD: Mr. Chairman, may I ask about the three and three quarter million pounds of salmon within the 12 mile zone? Do we have an estimate of the value of that?



Mr. ROBICHAUD: There again it is in the vicinity of \$1 million if you take the average price paid for the different varieties of salmon.

Mr. HOWARD: I do not wish to go down through all these point by point, particularly in this way; but on the Atlantic coast there is reference to catches of red fish by the United States in certain areas, and so on. I wonder whether it would be possible to have a dollar value attached to these; that is, an estimate of what this means in terms of dollars.

Mr. ROBICHAUD: No; it would be very difficult to obtain an estimate, or even a near accurate value of the catch, because almost the total of this catch is cod which is being processed aboard the vessels. Most of it is salted and taken to their respective countries in order to be further processed. It would be very difficult to give the value. If you want a basis on which to estimate the value of this fish so far as the actual landed value is concerned, normally you could use as an average about four cents per pound, which would compare in value to our own Canadian catch.

Mr. HOWARD: This is what I am getting at.

Mr. ROBICHAUD: You could use four cents a pound to the fisherman as a landed value.

Mr. HOWARD: I wonder, also, whether we could attach a value to the salmon—pink and sockeye—caught by United States fishermen in Alaskan waters; that is, the sockeye and pink which are coming to rivers in Canada, as referred to on page 5 of the statement.

Mr. ROBICHAUD: There would be quite a variation here, because prices vary from year to year. Here we have quoted the 1957 and 1958 figures. We would have to look to find out what prices were being paid to our Canadian fishermen during those specific periods, and it would be pretty well in line with prices received by United States fishermen.

Mr. HOWARD: This is what I am getting at. You have no figures of estimates later than 1958?

Mr. ROBICHAUD: Not for that particular area, I understand.

Mr. HOWARD: Further it reads as follows:

Little northward movement across the border was evident in 1957, whereas it was substantial in 1958.

Does that mean salmon which would come through Hecate strait or water off our shores going northward across the border to spawn in rivers that are in Alaskan territory.

Mr. ROBICHAUD: Yes. This is the subject of certain surveys which were made, and again it is only an estimate.

Mr. HOWARD: I appreciate that. Do we have any estimate of the catch of that northbound salmon, if we catch them?

Mr. ROBICHAUD: Mr. Chairman, this is the type of question which my officials might wish to answer. However, there again we are getting into such a technical aspect on the migration of the salmon that it would be very difficult to relate this information, which in time could be supplied, to the terms of reference of the present bill. We are endeavouring to give as much information as we have available at the moment.

Mr. HOWARD: I do not wish unduly to tax the facilities of the Department of Fisheries, but I believe this is important information, because by the bill we are attempting to conserve our fisheries; this is our big concern. Without computing what the landed value on the coast would be, we can see that the catch of other countries is millions of dollars greater in value than Canada's catch. Our landed value of the catch is insignificant compared to the millions



and millions of dollars involved in respect of other nations in waters which will be within our 12 mile fishing zone. I think it is vitally important that we know what that dollar value relationship is and, secondly, we should know what statistics exist with respect to the catch of salmon in order that we can properly approach other nations—which, as the minister says, is the only way we can approach them—at an international convention or treaty negotiation to preserve this fishery. If we could obtain this information, I think it would give us a more clear indication of what effect the bill might have.

I have some other matters, but mostly they involve negotiations which properly might be dealt with by officials from the Department of External Affairs. Also, there is the question of our exportation of fisheries' products, particularly to the United States. If we had this information we could see whether we are being used beneficially or detrimentally if we take the course of action recommended in this bill.

The CHAIRMAN: I think, probably, the effect of this bill on the trade with the United States already has been referred to in this committee by Mr. Martin and Mr. Robichaud.

Mr. ROBICHAUD: Mr. Martin made it very clear that the effect of this legislation on trade never came into the discussion which we have had with the United States authorities in respect of this bill. We have limited our negotiations strictly to the fishing operations of both countries.

Mr. HOWARD: The other day Mr. Martin almost committed you to explain to the committee the contrast which existed between the east coast and the west coast in respect of the marketing of fish. That question was directed to him by Mr. Crouse, and Mr. Martin said he thought that when your turn came you would be very interested in pointing out the contrast which there is between the United States and Canada on the east coast and the west coast.

Mr. ROBICHAUD: There is no doubt in my mind that the large percentage of the total fish production of Canada is being exported to the United States. The figures will show that at least 75 per cent of our total exports are sold on the United States market. Probably a larger proportion comes from the Atlantic coast. Similarly, also a large proportion of the halibut catch on the west coast, and some of the salmon catch is exported to the United States market.

Mr. HOWARD: Do you know to what extent the United States has to import fish to meet its own consumption requirements within its nation?

Mr. ROBICHAUD: Again I do not believe that this comes within the terms of the bill. If we are to discuss the percentage of imports by the United States, we are getting out of our terms of reference.

Mr. HOWARD: I would like to disagree with that. I think Mr. Crouse and others in this committee already have raised the question of potential retaliation by the United States in the field of placing an embargo or restriction on imports of fish into that country if we take a certain course of action. The statement was made by Mr. Martin in this committee that there never was any intimation by the United States of any such retaliation. However, the subject matter has been opened up, and I think we are entitled to expand upon that and inquire further into this matter of potential retaliation, if it exists at all, and take a look at the requirements of the United States and its past history, to see whether or not we are being overly discriminated against in our relationship with the the United States, which has been the case so many times in the past.

Mr. McLEAN (*Charlotte*): Mr. Chairman, I could give him some information on that. In our operation I suppose there is about 21 million pounds of



fillets going to the United States, and I imagine that applies to a great many others. I cannot speak for Newfoundland, but I imagine it applies to Newfoundland also. If we did not have that market, the plants would all be shut down.

Mr. ROBICHAUD: The United States imports about \$100 millions worth of Canadian fish every year.

Mr. HOWARD: \$100 million?

Mr. ROBICHAUD: Roughly, from Canada.

Mr. HOWARD: There is an attitude existing in the United States involving this question of retaliation, even though Mr. Martin and yourself have said it never has been a problem. Knowing politics as we do, especially in the United States, it is pretty hard to determine what degree of significance we should attach to this; but there has been introduced into the United States a bill, and while I do not have the bill and only have read the statements in the congressional record relating to it, it is a bill which could have the effect of retaliation against Canada for whatever action Canada might take. Congressman Tollefson, who I gather is from Washington, and who would have an interest in the 44 million pounds of groundfish which United States fishermen catch in waters off our coast, is interested in this bill. I am sure he represents a point of view which is fairly prevalent among the fishermen in Oregon, Washington and California. I feel this is something we are entitled to look into.

Mr. ROBICHAUD: I do not believe we can determine here what attitude the United States might take in the future. I understand the concern of some members, particularly that of Mr. Crouse who is familiar with the marketing of our fish production, particularly on the east coast. I would like to repeat, however, that the matter of retaliation never came up in our discussion with the United States.

The CHAIRMAN: Thank you, Mr. Robichaud. I think at this stage in any event this answers the inquiry which was made.

Mr. CROUSE: May I put one more question to the minister before our meeting closes? In the event we arrive at a satisfactory conclusion to the negotiations and the 12 mile limit is established, it always is possible that some country will dispute the law. I would like to know under what legal authority a ship which is caught in the middle of the St. Lawrence would be tried; would it be tried, for example, under the courts of Quebec, New Brunswick, Prince Edward Island or Nova Scotia?

Mr. ROBICHAUD: I am glad this question has been asked, because I was not too clear in replying to a similar question asked yesterday by Mr. MacLean. We already have jurisdiction under the Fisheries Act to take action. If the St. Lawrence is internal waters and some offences take place in those particular waters against any of the fisheries regulations, under the Fisheries Act we have the authority to take the party concerned to court in any of the provinces. Section 9 of the Coastal Fisheries Protection Act reads as follows:

All courts, justices of the peace, and magistrates in Canada have the same jurisdiction with respect to offences under this act as they have under sections 681 to 684 of the Canada Shipping Act, 1934, with respect to offences under that act, and the provisions of those sections apply to offences under this act in the same manner and to the same extent as they apply to offences under the Canada Shipping Act, 1934.

So, we have jurisdiction.



I am told we also have the same authority under the Fisheries Act, section 77, which reads as follows:

All courts and justices in Canada have the same jurisdiction with respect to offences under this act as they have under sections 689 to 692 of the Canada Shipping Act and the provisions of those sections apply to offences under this act in the same manner and to the same extent as they apply to offences under the Canada Shipping Act.

So, there is no problem.

The CHAIRMAN: Gentlemen, it is 12 o'clock.

The next scheduled meeting of the committee is at 10 o'clock on Monday morning, June 15, when the representatives of the airlines will be here.



## APPENDIX "A"

## LAW OF THE SEA

Treaty Rights on the Canadian Eastern and  
Newfoundland Coasts of the United States and France

I—Texts of the relevant treaties and awards affecting the Canadian eastern and Newfoundland coasts:

- (a) Convention of Commerce between His Majesty and the United States—signed at London, October 20, 1818. Ratifications exchanged January 30, 1819.

Art. I. Whereas differences have arisen respecting the liberty claimed by the United States, for the Inhabitants, thereof, to take, dry and cure fish, on certain Coasts, Bays, Harbours, and Creeks, of His Britannic Majesty's Dominions, in America; it is agreed between the High Contracting Parties, that the Inhabitants of the said United States shall have, for ever, in common with the Subjects of His Britannic Majesty, the liberty to take fish of every kind, on that part of the southern Coast of Newfoundland, which extends from Cape Ray to the Rameau Islands, on the western and northern Coast of Newfoundland, from the said Cape Ray to the Quirpon Islands, on the shores of the Magdalen Islands, and also on the Coasts, Bays, Harbours and Creeks, from Mount Joly, on the southern Coast of Labrador, to and through the Straits of Belle-isle, and thence northwardly indefinitely along the Coast; without prejudice, however, to any of the exclusive rights of the Hudson Bay Company; and that the American fishermen shall also have liberty, for ever, to dry and cure fish in any of the unsettled Bays, Harbours, and Creeks, of the southern part of the Coast of Newfoundland hereabove described, and of the Coast of Labrador; but so soon as the same, or any portion thereof, shall be settled, it shall not be lawful for the said Fishermen to dry or cure fish at such portion so settled, without previous agreement for such purpose, with the Inhabitants, Proprietors or Possessors of the ground. And the United States hereby renounce for ever, any liberty heretofore enjoyed or claimed by the Inhabitants thereof, to take, dry, or cure fish, on or within three marine miles of any of the Coasts, Bays, Creeks, or Harbours, of His Britannic Majesty's Dominions in America, not included within the above-mentioned limits; provided, however, that the American Fishermen shall be admitted to enter such Bays or Harbours, for the purpose of shelter and of repairing damages therein, of purchasing wood, and of obtaining water, and for no other purpose whatever. But they shall be under such restrictions as may be necessary to prevent their taking, drying, or curing fish therein, or in any other manner whatever abusing the privileges hereby reserved to them.

- (b) Special Agreement for the submission of questions relating to fisheries on the north Atlantic coast under the General Convention of Arbitration concluded between His Majesty and the United States of America on April 4, 1908—signed at Washington, January 27, 1909.

Question 5. From where must be measured the "3 marine miles of any of the coasts, bays, creeks, or harbours" referred to in the said Article [Article 1 of the Treaty of 1818]?

- (c) Award of the tribunal of Arbitration constituted in accordance with the provisions of Article 5 of the Special Agreement between His



Majesty and the United States of America, signed at Washington the 27th January, 1909. (The Hague, September 7, 1910.)

Now, therefore, this Tribunal, in pursuance of the provisions of Article IV, hereby recommends for the consideration and acceptance of the High Contracting Parties the following rules and method of procedure for determining the limits of the bays hereinbefore enumerated:

1

In every bay not hereinafter specifically provided for the limits of exclusion shall be drawn three miles seaward from a straight line across the bay in the part nearest the entrance at the first point where the width does not exceed ten miles.

2

In the following bays, where the configuration of the coast and the local climatic conditions are such that foreign fishermen, when within the geographic headlands, might reasonably and bona fide believe themselves on the high seas, the limits of exclusion shall be drawn in each case between the headlands hereinafter specified as being those at and within which such fishermen might be reasonably expected to recognize the bay under average conditions.

For the Baie des Chaleurs the line from the light at Birch Point on Miscou Island to Macquereau Point Light; for the Bay of Miramichi, the line from the light at Point Escuminac to the light on the eastern point of Tabusintac Gully; for Egmont Bay, in Prince Edward Island, the line from the light at Cape Egmont to the light at West Point; and off St. Ann's Bay, in the province of Nova Scotia, the line from the light at Point Anconi to the nearest point on the opposite shore of the mainland.

For Fortune Bay, in Newfoundland, the line from Connaigre Head to the light on the southeasterly end of Brunet Island, thence to Fortune Head.

For or near the following bays the limits of exclusion shall be three marine miles seaward from the following lines, namely:

For or near Barrington Bay, in Nova Scotia, the line from the light on Stoddart Island to the light on the south point of Cape Sable, thence to the light at Baccaro Point; at Chedabucto and St. Peter's Bay, the line from Cranberry Island light to Green Island light, thence to Point Rouge; for Mira Bay, the line from the light on the east point of Scatari Island to the northeasterly point of Cape Morien; and at Placentia Bay, in Newfoundland, the line from Latine Point, on the eastern mainland shore, to the most southerly point of Red Island, thence by the most southerly point of Marasheen Island to the mainland.

Long Island and Bryer Island on St. Mary's Bay, in Nova Scotia, shall, for the purpose of delimitation, be taken as the coasts of such bays.

It is understood that nothing in these rules refers either to the Bay of Fundy considered as a whole apart from its bays and creeks or as to the innocent passage through the Gut of Canso, which were excluded by the agreement made by exchange of notes between Mr. Bacon and Mr. Bryce, dated February 21st, 1909, and March 4th, 1909; or to Conception Bay, which was provided for by the decision of the Privy Council in the case of the Direct United States Cable Company v. the Anglo-American Telegraph Company, in which decision the United States have acquiesced.

(d) Agreement of 1912 between His Majesty and the United States (Treaty of Washington)—signed at Washington July 20, 1912. Ratifications exchanged November 15, 1912.

## Article 2

And whereas the Tribunal of Arbitration in its award decided that—

In case of bays the 3 marine miles are to be measured from a straight line drawn across the body of water at the place where it ceases to have the configuration and characteristics of a bay. At all other places the 3 marine miles are to be measured following the sinuosities of the coast.

And whereas the Tribunal made certain recommendations for the determination of the limits of the bays enumerated in the award;

Now, therefore, it is agreed that the recommendations, in so far as the same relate to bays contiguous to the territory of the Dominion of Canada, to which Question V of the Special Agreement is applicable, are hereby adopted, to wit:

In every bay not hereinafter specifically provided for, the limits of exclusion shall be drawn 3 miles seaward from a straight line across the bay in the part nearest the entrance at the first point where the width does not exceed 10 miles.

For the Baie des Chaleurs the limits of exclusion shall be drawn from the line from the Light at Birch Point on Miscou Island to Macquereau Point Light; for the Bay of Miramichi, the line from the Light at Point Escuminac to the Light on the eastern point of Tabisintac Gully; for Egmont Bay, in Prince Edward Island, the line from the Light at Cape Egmont to the Light at West Point; and off St. Ann's Bay, in the Province of Nova Scotia, the line from the Light at Point Anconi to the nearest point on the opposite shore of the mainland.

For or near the following bays the limits of exclusion shall be 3 marine miles seawards from the following lines, namely:

For or near Barrington Bay, in Nova Scotia, the line from the Light on Stoddard Island to the Light on the south point of Cape Sable, thence to the Light at Baccaro Point; at Chedabucto and St. Peter's Bays, the line from Cranberry Island Light to Green Island Light, thence to Point Rouge; for Mira Bay, the line from the light on the east point of Scatary Island to the northeasterly point of Cape Morien.

Long Island and Bryer Island, on St. Mary's Bay, in Nova Scotia, shall, for the purpose of delimitation, be taken as the coasts of such bays.

It is understood that the award does not cover Hudson Bay.

## Article 3

It is further agreed that the delimitation of all or any of the bays on the coast of Newfoundland, whether mentioned in the recommendations or not, does not require consideration at present.

(e) Convention between the United Kingdom and France respecting Newfoundland and West and Central Africa—signed at London, April 8, 1904. Ratifications exchanged December 8, 1904.

## Article II

France retains for her citizens, on a footing of equality with British subjects, the right of fishing in the territorial waters on that portion of the coast of Newfoundland comprised between Cape St. John and Cape Ray, passing by the north; this right shall be exercised during the usual fishing season closing for all persons on the 20th October of each year.

The French may therefore fish there for every kind of fish, including bait and also shell fish. They may enter any port or harbour on the said coast and may there obtain supplies or bait and shelter on the same conditions as the



inhabitants of Newfoundland, but they will remain subject to the local Regulations in force; they may also fish at the mouth of the rivers, but without going beyond a straight line drawn between the two extremities of the banks, where the river enters the sea.

They shall not make use of stake-nets or fixed engines without permission of the local authorities.

On the above-mentioned portion of the coast, British subjects and French citizens shall be subject alike to the laws and Regulations now in force, or which may hereafter be passed for the establishment of a close time in regard to any particular kind of fish, or for the improvement of the fisheries. Notice of any fresh laws or Regulations shall be given to the Government of the French Republic three months before they come into operation.

The policing of the fishing on the above-mentioned portion of the coast, and for prevention of illicit liquor traffic and smuggling of spirits, shall form the subject of Regulations drawn up in agreement by the two Governments.

### Article III

A pecuniary indemnity shall be awarded by His Britannic Majesty's Government to the French citizens engaged in fishing or the preparation of fish on the "Treaty Shore", who are obliged, either to abandon the establishments they possess there, or to give up their occupation, in consequence of the modification introduced by the present Convention into the existing state of affairs.

This indemnity cannot be claimed by the parties interested unless they have been engaged in their business prior to the closing of the fishing season of 1903.

Claims for indemnity shall be submitted to an Arbitral Tribunal, composed of an officer of each nation, and, in the event of disagreement, of an Umpire appointed in accordance with the procedure laid down by Article XXXII of the Hague Convention. The details regulating the constitution of the Tribunal and the conditions of the inquiries to be instituted for the purpose of substantiating the claims, shall form the subject of a special Agreement between the two Governments.

### Article IV

His Britannic Majesty's Government, recognizing that, in addition to the indemnity referred to in the preceding Article, some territorial compensation is due to France in return for the surrender of her privilege in that part of the Island of Newfoundland referred to in Article II, agree with the Government of the French Republic to the provisions embodied in the following Articles. (By Article V of the Convention certain territorial concessions in Africa were granted to France.)

## APPENDIX "B"

## STATEMENT ON FOREIGN FISHING OFF CANADIAN COASTS

(Prepared by Department of Fisheries)

The following information is based on 1962 figures, being the most up to date and complete reports available. Figures are based on estimates as no separate statistics have been kept by anyone of catches inside or outside the proposed 12-mile fishing zone. The estimates are based on the knowledge of Canadian fishery biologists about the operations of foreign fleets. Estimates are also being made by the countries claiming historic fishing rights. When these become available they may differ considerably from our own estimates.

## PACIFIC COAST

Only Canada and the United States fish in the 12-mile zone off the Canadian and American West Coast. With the exception of the halibut fishery, all Canadian fishing is along the coast of British Columbia and most of it within the 12-mile limit.

Fishing by U.S. vessels off the British Columbia coast has been developed in the last 50 to 60 years. The following is a report on fishing by the U.S. off the coast of British Columbia.

*Halibut*

Total American catches off Canadian shores in the 3-12 mile zone in 1962 totalled about 1 million pounds. This compares with a Canadian catch of about 1.2 million pounds in the 3-12 mile zone off Alaska. Total U.S. catch, most of which was taken beyond the 12-mile limit, was 41,900,000 lbs., having a landed value of about \$9 million.

*Groundfish*

Trawl catches of groundfish by the U.S. off the Canadian shores in the 3-12 mile zone in 1962 would not exceed 18,000,000 lbs.

*Troll Caught Salmon*

In 1962 the American catch off the Canadian shores totalled around 5 million pounds. Of this total it is estimated that 75 per cent was caught in the 3-12 mile zone.

## ATLANTIC COAST

The following is a summary of foreign fishing off the Canadian Atlantic coasts. All of the countries listed are members of the International Northwest Atlantic Fisheries Commission:

*United States*

The United States has fishing rights under the 1818 Treaty in territorial waters along the south coast of Newfoundland from Cape Ray to Rameau Island; on the western and northern coast of Newfoundland from Cape Ray to Quirpon Islands; on the shores of Magdalen Islands and on the coasts of Labrador from Mount Joly northward. In the past 50 years little use has been made by the U.S. of these Treaty rights. Since World War II the principal interest of U.S. fishermen has been in fishing for redfish off western Nova Scotia, Anticosti and northwestern Newfoundland. The U.S. catch of redfish increased from 20,000 tons at the end of World War II to 56,000 tons in 1962. It is only in these areas that there is any significant U.S. fishing within 12 miles of the Canadian coast.



*France*

France has fishing rights under the 1904 Treaty in territorial waters of Newfoundland along the west and northeast coasts from Cape Ray to Cape St. John, passing by the north. Since World War II French fishermen have made little use of these rights.

In 1962 France caught 155,804 tons of groundfish in the northwest Atlantic.

*Portugal*

The Portuguese catch in the northwest Atlantic was 217,615 tons of groundfish mostly cod in 1962.

*Spain*

The catch of groundfish in the northwest Atlantic has increased from 10,000 tons in 1945 to 205,694 tons in 1962.

*Italy*

Caught 2,000 tons of groundfish at the end of World War II and 14,000 tons in 1953 and only 1,000 tons in 1962.

*Denmark, Faroes and Norway*

Subsequent to 1955 have fished on the Flemish Cap and in deep water off the Newfoundland east coast. Norwegian fishermen have, however, been engaged in the sealing operations off the Straits of Belle Isle and off the Newfoundland and the Labrador coasts and to a minor degree in the Gulf of St. Lawrence. They have also been fishing for porbeagle during the last two seasons in the Gulf of St. Lawrence.

*Germany, Iceland and the United Kingdom*

Fish mostly in the northern areas off Greenland and a few trips have been made to areas closer to the Canadian coasts, particularly by U.K. vessels.

*U.S.S.R.*

Started to fish in the Northwest Atlantic in 1956 (17,000 tons, mainly redfish). In 1962 the groundfish catch in the ICNAF Convention Area was 207,000 tons (mainly redfish and cod). The fishing is all off-shore in deep water, none of it within the 12-mile limit. In addition 160,000 tons of herring were caught in 1962, mostly in the Georges Bank area.

Most of the foreign fishing within 12 miles of the Canadian coast of the Atlantic takes place in the region of the Gulf of St. Lawrence and off Newfoundland. The U.S. drags for redfish north of Anticosti and off northwest Newfoundland. French, Portuguese, Spanish and Italian trawlers fish for cod along the Laurentian Channel near Cape Breton and southwest Newfoundland.

## JAPANESE HALIBUT CATCHES IN BERING SEA

The total Japanese catch of halibut in the Bering Sea in 1963 was 21,300,000 lbs of which 6,177,000 lbs were taken east of 175°W.

CATCHES IN ALASKAN WATERS OF SALMON  
SPAWNING IN BRITISH COLUMBIA RIVERS

Tagging in 1957 and 1958 indicates variable quantities of sockeye and pink salmon bound for Canadian rivers intercepted by fishing in Alaska. The catch of Canadian-bound sockeye off Prince of Wales Island was estimated as of the order of 150,000 and 200,000 in 1957 and 1958 respectively. The corresponding estimate for pinks was 2,000,000 in 1957 and 50,000 in 1958. Little northward movement across the border was evident in 1957, whereas it was substantial in 1958.

No figures are available for Alaskan catches of salmon from Canadian rivers entering the sea in Alaska.



















HOUSE OF COMMONS

Second Session—Twenty-sixth Parliament

1964

GOVT PUBNS

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STANDING COMMITTEE ON

# MARINE AND FISHERIES

*Chairman:* Mr. C. R. GRANGER

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MINUTES OF PROCEEDINGS AND EVIDENCE

No. 2

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MONDAY, JUNE 15, 1964

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Respecting

BILL S-17. AN ACT RESPECTING THE TERRITORIAL  
SEA AND FISHING ZONES OF CANADA

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WITNESS:

Mr. Murray E. Corlett, Q.C.

ROGER DUHAMEL, F.R.S.C.  
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1964



STANDING COMMITTEE ON MARINE AND FISHERIES

*Chairman:* Mr. C. R. Granger

*Vice-Chairman:* Mr. Alexandre Cyr

and Messrs.

Armstrong,	Crossman <sup>1</sup> ,	McLean (Charlotte),
Barnett,	Crouse,	Mullally,
Basford,	Danforth,	Noble,
Bécharde,	Dionne,	Patterson,
Bélanger,	Dubé,	Pugh,
Bigg,	Godin,	Rhéaume,
Blouin,	Groos,	Stefanson,
Cadieu (Meadow Lake),	Howard,	Stewart,
Cashin,	Leduc,	Tucker,
Chatterton,	MacLean (Queens),	Webster,
Coates,	Macquarrie,	Whelan—35.

(Quorum 10)

M. Roussin,  
*Clerk of the Committee.*

<sup>1</sup>Replaced Mr. Lachance on June 12, 1964.

ORDER OF REFERENCE

FRIDAY, June 12, 1964.

*Ordered*,—That the name of Mr. Crossman be substituted for that of Mr. Lachance on the Standing Committee on Marine and Fisheries.

Attest

LÉON-J. RAYMOND,  
*The Clerk of the House.*





## MINUTES OF PROCEEDINGS

MONDAY, June 15, 1964.

(6)

The Standing Committee on Marine and Fisheries met at 10.08 this a.m. Mr. C. R. Granger, the Chairman, presided.

*Members present:* Messrs. Barnett, Basford, Chatterton, Cyr, Danforth, Granger, Howard, MacLean (*Queens*), Mullally, Noble, Patterson, Pugh, Rhéaume, Stewart and Webster (15).

*In attendance:* Mr. Murray E. Corlett, Q. C., Ottawa, representing some airlines.

*Also in attendance:* The Honourable H. Robichaud, Minister of Fisheries; Mr. J. D. Affleck, Assistant Deputy Minister, Department of Justice; Mr. R. R. Macgillivray, Assistant Counsel, Department of Transport; Dr. A. W. H. Needler, Deputy Minister of Fisheries; Mr. S. V. Ozere, Assistant Deputy Minister of Fisheries; Mr. M. H. Wershof, Legal Adviser, Assistant Under Secretary, and Mr. M. A. E. Gotlieb, Deputy Legal Adviser, Department of External Affairs.

The Chairman introduced Mr. Corlett, who read a statement in connection with Bill S-17, and on behalf of the following airlines:

British Overseas Airways Corporation  
Scandinavian Airlines System  
Swissair  
Sabena  
KLM Royal Dutch Airlines  
Irish International Air Lines  
Pan American World Airways  
Trans World Airlines Inc.  
Flying Tigers  
Air India

The Witness was examined at length by the Committee.

At 11.40 the Committee adjourned until 9.30 a.m. Thursday, June 18.

Marcel Roussin,  
*Clerk of the Committee.*





## EVIDENCE

MONDAY, June 15, 1964.

The CHAIRMAN: Gentlemen, we have a quorum, and I might say a quorum plus. I think I would like to begin by saying how much I appreciate the presence of a quorum, and more, just a few minutes after ten on Monday morning. This encourages me in respect of this committee; it must represent a very great effort, and it shows a considerable interest on the part of the members of the committee. As I said, we have more than a quorum, and are ready to pursue our business on a Monday morning when normally committees do not meet.

This morning we have before us Mr. Murray E. Corlett, Q.C., who is representing nine international air lines.

Also, in attendance we have Mr. J. D. Affleck, deputy minister, Department of Justice; Mr. R. R. Macgillivray, assistant counsel from the Department of Transport; D. A. W. H. Needler, deputy minister of fisheries; Mr. S. V. Ozere, assistant deputy minister of fisheries; Mr. M. H. Wershof, legal adviser, assistant undersecretary of state for external affairs, and Mr. A. E. Gotlieb, deputy legal adviser, Department of External Affairs. These gentlemen have been with us at our other meetings.

We will begin this morning by hearing from Mr. Corlett.

Mr. MURRAY E. CORLETT, Q.C. (*Maclaren, Laidlaw & Corlett, Barristers*): Mr. Chairman, and members of the marine and fisheries committee of the House of Commons, I am appearing on behalf of ten international air lines who are very interested in one aspect of this bill which is presently before you, Bill No. S-17. To indicate to you the broad range of the representation among these ten air lines, we have Pan American World Airways, Trans World Airlines Inc., and Flying Tigers, which are United States companies; British Overseas Airways Corporation, which is a British company; KLM Royal Dutch Airlines, which is a Dutch company; Sabena, which is a Belgian company; Swissair, which is a Swiss company; SAS—Scandinavian Airline System—which is a Scandinavian company; Irish International Air Lines which is the Irish line; and then just last week Air India communicated with us and asked us to appear on its behalf as well.

Of course, our interest is not in connection with fisheries, and were it not for the existence of clause 7 in Bill No. S-17, I would not be here at all.

All the air lines I have cited—and there are others which we are not representing who fly the same route—on their service across the north Atlantic between various European points and the eastern United States, particularly New York, fly over what they call the great circle route which comes up off the Nova Scotian coast and then proceeds in an easterly direction towards various European countries. I am sure the maritime members would be aware of this.

In this connection, our interest in respect of Bill No. S-17 relates only to the situation on the east coast. We are not concerned with the situation on the Pacific coast of Canada. The volume of civilian traffic handled by these air lines is getting greater all the time; it is a big expensive business. The majority of them follow this route which I have mentioned, flying somewhere between the Nova Scotian coast and Sable island, which I believe is 90 miles, or so, off the Nova Scotian coast, and which is Canadian territory.



The members of the committee will note that clause 7 of Bill No. S-17 specifically amends two sections in the federal Aeronautics Act. As the Aeronautics Act exists today, the jurisdiction of Canadian authorities with reference to airplanes relates to airplanes, Canadian or foreign, which are flying over Canadian soil or the territorial waters of Canada which, up until now, for aeronautical purposes, has been deemed to be the historic three mile measurement from the shore line. Also, of course, the Aeronautics Act at the present time has jurisdiction over Canadian registered aircraft operating anywhere in the world.

Now, with clause 7 of the bill in the form in which it is, it would appear to us to be intended by the government to adopt what is referred to as a territorial sea, which is defined in clause 3. The width of the territorial sea still will be three miles, but the point of commencement, of course, might be quite different, since another purpose of Bill No. S-17 is to adopt the straight baseline method.

Of course, it would be beyond the province of the air lines to dispute at all what a government is going to do in connection with a matter which essentially is a fishing matter. However, the fear of our clients is due entirely to the wording of section 5 which sets forth the way in which the geographical co-ordinates of points will be selected.

By executive act the government from time to time—not only the present government, but a future government—in ten or 20 years time could say “Oh well, but we are going to change certain geographical co-ordinates”. Our fear is, if this government or a future government should choose Sable island as a geographical co-ordinate, from an examination of the map it can be seen that the territorial waters, for the purposes of the Aeronautics Act and on express amendment to the Aeronautics Act, will swing out into the Atlantic 100 miles more or less and have the effect, actually, of catching practically all these flights from the United States to Europe by foreign planes which presently are operating outside the territorial waters of Canada, having in mind the historic concept of the three mile limit.

As I read clause 5 it would be possible, if it were enacted in its present form, for a government quite legally to select a point which actually could be a point on water so long as the point is capable of fixed determination. That being so, we are quite concerned about the effect that clause 5 of Bill No. S-17—namely the section which selects the geographical co-ordinates—will have on these airlines if it remains in its present form.

I have followed the proceedings in the other place. I have not seen the evidence of the proceedings in this committee so far. However, in the Senate, as I remember it, the Secretary of State for External Affairs explained why disclosure of the geographic co-ordinate points could not be given in detail now; although as I read his evidence, he hinted it would follow the recommendation of the fisheries council to the government back in January of 1963. Also, in the evidence I noted that the Minister of Fisheries on more than one occasion made specific mention of the headland to headland approach. For all I know, as an outsider, that may be what the government has in mind.

However, my purpose in being here this morning is to indicate to you that as I read clause 5, as a lawyer, there is nothing in the language of clause 5 in its present form, subclauses (1) and (2), which would adopt the headland approach; but it is possible, of course, that Sable island could be deemed to be a headland. That is the major objection I would wish, on behalf of my clients, to mention to the committee; that is, the geographical points under clause 5 are not defined. If clause 5 went through in its present form, it would be legally possible as a result of consequential amendments to the Aeronautics Act, as set forth in clause 7, to extend the jurisdiction of Canadian authorities

for aeronautical purposes to catch the flights of practically all of these foreign airlines operating from the eastern United States to Europe.

If Sable Island is not chosen, of course we can then have no objection, and if it is not the intention of the government to use a point on the water, we would have no objection. I would like to call the attention of the committee to a point which is of interest to us. If they have not already done so, I presume the law officers of the crown can explain the government's position in this respect.

In looking at Bill No. S-17, clause 2, it would appear as if it were the intention of the legislators, with anything contained in Bill No. S-17, that the adoption of this new notion of a territorial sea as distinct from the old notion of territorial waters would be made applicable to existing Canadian statutes such as the Aeronautics Act or any future Canadian statute unless in those other statutes there was something contained which would be inconsistent with the intention of clause 2. Because you have in part 2 of Bill No. S-17 specific amendments to a number of statutes which do not relate to fisheries at all, such as the Aeronautics Act, the Canada Shipping Act, the Customs Act, and so on. I take it that the law officers are of the opinion that clause 2 as it stands at present would not be sufficient to change the extent of the jurisdiction, let us say, of the Canadian government under the Aeronautics Act. Therefore, there has to be a specific amendment to the Aeronautics Act.

Now, if that is so, our query is: Why then does the government not go one step further and include all statutes setting forth Canadian laws which presently use the words "territorial waters"? For instance, at the present time before parliament—I think it is a government bill—there is a bill S-25, an act respecting the Geneva conventions of 1949. This was a government bill introduced in the Senate which was passed by the Senate on June 3, but as far as I know it has not got beyond first reading in the House of Commons. However it relates to the protection of war victims. There are four international conventions signed in 1949 to which Canada was a party, and which are now being implemented by appropriate legislation.

Article 91, for instance, of the particular convention referred to in schedule 3 of this bill, S-25, is the Geneva Convention relative to the treatment of prisoners of war. This convention was signed on August 12, 1949, and in its article 91 dealing with escaped prisoners of war, specific reference in subsection 3 still uses the words "territorial waters of the detaining power".

Now, I would think because there is nothing else in the convention which is to the contrary, that the territorial waters would mean the usual three mile limit. I can see why nothing can be done about this, because it was an international convention signed 15 years ago. But I would submit that the Canadian government at that time and other governments, when this phrase "territorial waters" was used, were thinking in terms of the three mile limit.

Another example would be what is popularly called the Chicago convention or the Chicago treaty, to which Canada was a party, and which is technically referred to as the International Convention on Civil Aviation. This of course is the basic document in so far as Canadian aviation is concerned today. It was signed in December, 1944; Canada was a signatory; and in article 1 the basic proposition is cited. The convention states in article 1: "The contracting states"—which include Canada—"recognize that every state has complete and exclusive sovereignty over the air space above its territory".

Then in article 2 they go on to define what in fact is this territory. "For the purposes of this convention the territory of a state shall be deemed to be the land areas and territorial waters adjacent there to under the sovereignty, suzerainty, protection or mandate of such state." This would define, of course,



territorial waters. This of course is an international convention under which Canada is operating today.

The leading authority on the matter, as far as I am aware, in the English language, is of course the English publication by Shawcross and Beaumont, on "Air Law", and in their second edition of 1951 they deal extensively with the Chicago convention. The authors of that learned work in dealing with what are our territorial waters, which are referred to in article 2 of the Chicago convention at page 176, item 204, specifically come to the conclusion, so that there is no doubt, that in the international sense territorial water means three miles from the shore line.

My point is this, if section 7 of Bill No. S-17, the bill which is now before you, should be enacted in its present form, for the purposes of the Aeronautics Act we shall speak of the territorial sea not knowing of course where the baseline is going to be.

Might this not get Canada into international conflict? Because the territorial sea, for the purpose of Bill No. S-17, in so far as the aeronautics law is concerned, would seem to me to be in conflict with territorial waters under article 2 of the Chicago convention to which Canada is a party.

The other point where a problem might arise would be in connection with Canadian admiralty law, because under the Canadian admiralty act it would appear, under section 18—and this statute was enacted back in 1934 and it has not been changed since, although I have read that the government intends to do something about it in the future—that they purport to adopt the law of England in its civil aspects relating to jurisdiction. The law of England from the admiralty point of view would appear to be the three miles. So it would appear, in conclusion, from our point of view that the geographical co-ordinates referred to in clause 5 should be spelled out in greater detail.

If Bill No. S-17 should go through in its present form, effort would have to be made to reconcile section 7 of this bill which amend the Aeronautics Act with the existing Chicago convention.

Of course members are already familiar, I am sure, with the fact that you have on the order paper a resolution which will involve an amendment to the Aeronautics Act as a government measure. Therefore, if you are going to deal with matters relating to aeronautics, might it not be better to deal with them all under the Aeronautics Act when it comes before parliament? I think that essentially is the position that my clients wish to take.

The CHAIRMAN: Thank you Mr. Corlett. Have the members any questions?

Mr. PUGH: Do your flights for instance go over Iceland or Greenland? I mean the flights of the companies you represent? I am thinking of the Scandinavian air lines. In respect of the flights I have in mind the answer would be no. The SAS, and some others, have what are called polar flights which fly over the north pole going to the orient. I think those flights would more likely fly over Iceland territory. I had in mind the great circle route in respect of which they might come to Iceland or Greenland.

Mr. CORLETT: As far as I am aware Mr. Pugh most of them would be 50 or 100 miles, and perhaps more, away from Iceland or Greenland.

Mr. PUGH: Assuming that Sable island is chosen, and there is no indication, of course, that it will be, those companies would then be flying over the territorial corridors of Canada. What is the procedure of the air lines under the Aeronautics Act, and what must they pay for rights to fly over that area?

Mr. CORLETT: You are referring to flights over Canadian territory?

Mr. PUGH: Yes.

Mr. CORLETT: Under the Chicago convention, of course, they are given the right to fly over Canadian territory but are subject to Canadian jurisdiction

when they are over Canadian territory and they, for instance, have to pay what is known as a telecommunications fee of \$20 for every flight that passes over Canadian territory. If they land on Canadian landing fields they must pay landing fees.

Mr. PUGH: If these aircraft landed on Canadian territory, that is one thing, but I am interested only in overflights.

Mr. CORLETT: There is a \$20 telecommunication fee which has been paid for some time and which would apply to any flight passing over Canadian territory or territorial waters as they now exist.

Mr. PUGH: Flights coming within, shall we say, 15 miles of the coast of Nova Scotia at the present time, that is between Sable island and Nova Scotia, use our telecommunications; is that right?

Mr. CORLETT: In most cases when those aircraft fly that close, my information is, that they would use that service. It is important to remember that a very highly developed international system is operating there. It is popularly called I.C.A.O. or the International Civilian Aviation Organization, which was created as a result of the Chicago convention. Of course, it is an agency I suppose of the United Nations with headquarters in Montreal. All of the member countries, and that would cover practically all of the countries that have major international air line operations, have worked out procedures dealing with this type of thing.

To be fair, of course, it is a fact that a dispute has been going on now for several years involving what might be popularly called overflights, but actually would be flights that would be well beyond Canadian jurisdiction, going out into the Atlantic as far as 250 to 300 miles, arising from a voluntary assumption by Canada some years ago of the right to look after the air traffic control. I.C.A.O. has been working on this problem for some time and my information is that a major meeting is to take place of the I.C.A.O. members next January in an attempt to work out some international system that will solve Canada's problems, and those of other countries. This is something that happens in an area outside the territorial jurisdiction of Canada.

Mr. PUGH: An aircraft reporting in, for example, would be under the control of NORAD as well; is that right?

Mr. CORLETT: I would think that to be right but I am not competent to deal with these technical matters.

Mr. PUGH: There is a system of reporting in, but I am referring to things other than in respect of NORAD, such as the air lines which come within a reasonable distance of our shores at the present time.

Mr. CORLETT: Yes, and some actually go over Canadian territory.

Mr. PUGH: They now use Canadian facilities, and do they pay that fee although they are not within the territorial waters of Canada?

Mr. CORLETT: If these air lines ask for that service they pay the fee, yes.

Mr. PUGH: That is the \$20 fee per flight to which you referred?

Mr. CORLETT: There has never been any dispute in respect of the \$20 telecommunication fee, but for a time there was also what is known as a \$64 route facility fee which has been the subject of controversy now going back for several years.

Mr. PUGH: Does that \$20 fee represent a single flight contract or does it also cover for instance the years operations of an air line?

Mr. CORLETT: No, this is a \$20 fee per flight.

Mr. PUGH: I realize that, but if an air line desires to use that service in respect of flight such and such a number today, does it pay the \$20 fee for



that one aircraft and then not bother to pay it or use the service for the next aircraft, or does the air lines pay on a yearly basis?

Mr. CORLETT: If an aircraft is over Canadian territory, as I have said, and, as I have said, a number of flights actually will go over the Nova Scotian coast or the Nova Scotian land, it would be subject to the \$20 fee whether it asked for the service or not.

Mr. PUGH: You mentioned at the beginning of your statement that the aircraft come between Sable island and the coast of Nova Scotia at the present time but not within the Canadian territorial waters.

Mr. CORLETT: If I left that impression I am sorry because a number come over Nova Scotia at the present time. There are many more that fly in what I might call a corridor between Sable Island and the existing territorial waters of Canada and would not be subject to the jurisdiction of Canadian authority under the Aeronautics Act. Of course, by the same token, even if they are outside the Canadian jurisdiction, such a foreign aircraft, of course, could always ask for the Canadian service and, based on a contract, it would have to pay for that service.

Mr. PUGH: Do your companies have a standing contract with Canada in this regard at the present time and, if so, which companies?

Mr. CORLETT: I am not aware of any formal contract because I think most of the arrangements in this regard are made through I.C.A.O. or the association of international airlines which is known as I.A.T.A.

Mr. PUGH: Do you know if any of them are actually paying a fee under any international regulation?

Mr. CORLETT: The \$20 telecommunication fee has been paid for many years.

Mr. PUGH: Are all the airlines which you represent paying that fee?

Mr. CORLETT: To the best of my knowledge, yes.

Mr. PUGH: You mentioned the \$20 fee as causing one of the problems which your air lines face today. What other problems exist?

Mr. CORLETT: There has been the other problem, Mr. Pugh, which goes back to 1947 or 1948 when it became apparent to the western governments that the volume of international air traffic across the north Atlantic was going to become greater and greater and that more facilities relating to such matters as air traffic control would have to be provided.

The North Atlantic as far as I can gather, because it was never formally affected by an act of I.C.A.O. and certainly not by any act of the parliament of Canada, was divided into four sectors. Canada apparently assumed jurisdiction over the northwest sector and the United States assumed jurisdiction over the southwest sector. The United Kingdom I believe assumed jurisdiction over the northeast sector and Portugal assumed jurisdiction over the southeast sector.

Canada voluntarily assumed this jurisdiction. Of course, as time passed by and the aircraft became bigger, the providing of these services from a Canadian point of view became very costly. About 1960, the government decided that these aircraft would have to pay for this service and an order in council was passed in 1961 retroactive to January 1961 which, in addition to the set \$20 telecommunication fee, required that each flight in this northwest sector of the north Atlantic would have to pay \$64 to the Canadian government. That regulation was catching, for instance, Pan American aircraft flights from New York to Bermuda because, as a result of military operations, very often they were required to divert their flights. Then, of course, the question came up of why the civilian lines should have to bear this cost because the volume of military and state traffic across the north Atlantic is very high. To make a long

story short, law suits were instituted against two of our clients, Pan American Airways and KLM, which would have been test cases, for non-payment of this \$64 route facility fee; but the law suits were dropped by the government of Canada about one year ago.

Mr. PUGH: I do not want to ask questions on that because someone else might like to do so, but is there a third problem or are there more problems? We have the \$20 fee and the \$64 question; is there another problem or are there more problems?

Mr. CORLETT: No. I was endeavouring to answer what fees were being paid and which had been demanded but this, as I say, is another aspect of the matter which presumably will be dealt with by the government, because there is now a resolution on the order paper for June 11—No. 24—which will specifically deal with this type of problem judging by the phrasing used, and it has been on the order paper since April 13. I merely suggested as perhaps one alternative that if you are going to deal with the jurisdiction under the Aeronautics Act, then maybe the time to do it would be when this Aeronautics Act is before parliament rather than—

Mr. PUGH: Rather than under fisheries?

Mr. CORLETT: That is right.

Mr. PUGH: I have only one more question on the \$64 question and the division of space you mentioned, the four territorial air spaces. Are the fees discussed at I.A.T.A.? Are those fees pretty well the same as those charged by other countries?

Mr. CORLETT: That, Mr. Pugh, has been the problem. Admittedly, the Chicago convention is almost 20 years old and it may be that it will have to be updated, but it is the contention of the international air lines that there is a procedure that is available now under I.C.A.O., to which Canada is a party, which will take care of this problem of the Canadian expense. None of these air lines is saying that the Canadian government must do this for free; all they want to ensure is that what they are paying for is in relation to what they need, not what might be available, because there might be some things available that they would not need.

Mr. PUGH: Not something put on there because of territorial jurisdiction?

Mr. CORLETT: No. If a state feels the cost of providing the service is far out of proportion to the direct benefit that their own air lines, such as Air Canada and Canadian Pacific, can obtain, they can go to I.C.A.O. and this procedure may result in the country whose people use the service contributing to the support of it. That is the position we have taken all along, and for some reason or other the Canadian government has been reluctant up to now to do that. It is a fact that there is a joint support program involving Iceland and Greenland. It may be that it has to be changed; I do not know. However, it may be that our clients' hope will come to a head as a result of an I.C.A.O. meeting which is to take place next January.

Mr. MULLALLY: I think the question I had in mind was more or less dealt with by Mr. Pugh. The main objection of the air lines is the payment of this fee? It is a matter of Canadian jurisdiction rather than international air space?

Mr. CORLETT: You mean with reference to Bill No. 17?

Mr. MULLALLY: Yes.

Mr. CORLETT: At the moment, of course, the Canadian government has withdrawn the \$64 charge that I have mentioned, and they have withdrawn the law suits. So, as far as the international air lines are concerned, we do not know what the government proposes to do; we will have to wait and see what the government proposes when it introduces this resolution for debate



later in the present session. The position that we take as far as Bill No. S-17 is concerned is that here is a clause, clause 7, which will specifically involve the air lines by a proposed amendment to the Aeronautics Act and the present wording of clause 5, which deals with the establishment of geographical co-ordinates. Our fear is that as clause 5 is presently worded this government or any future government could quite easily, without coming back to parliament, extend the jurisdiction for aeronautical purposes to Sable island.

Mr. MULLALLY: Assume they did; your only objection still would be the payment of the \$20 fee?

Mr. CORLETT: There is no objection to the \$20 fee—the telecommunication fee, as it is called. That has been paid without protest for years.

Mr. MULLALLY: Yes. Say the co-ordinates were established at Sable island, your only objection then is that there may be more frequent occasions upon which you would have to pay the fee. The payment of the fee is only a fear that you have. That is the only possible obstacle or difficulty the air lines could encounter by the extension of Canadian jurisdiction. There is no other imposition on the air lines by the extension of Canadian jurisdiction, any more than the likelihood of a more frequent payment of the \$20 fee.

Mr. CORLETT: Not the \$20 fee. To take a far-fetched example, suppose it was raised to \$2,000 per flight. Who can tell? If the government were given this jurisdiction a future government at any time, by merely passing an order in council, could relocate the establishment of the straight base line and bring in many more flights that are outside the Canadian jurisdiction at the moment.

Mr. MULLALLY: Suppose the co-ordinate and the base line were established along this line, your clients would have no objection?

Mr. CORLETT: No, because this is not within their province at all. They are not directly concerned with fisheries problems and their only concern is with reference to the situation on the east coast.

Mr. BASFORD: You represent national air lines such as BOAC and SAS. I wonder if they, being international air lines, have caused representations to be made by their governments to our government through international channels.

Mr. CORLETT: I do not know that. That would be beyond my authority anyway, and quite frankly I do not know what has happened. Pan American are privately owned, but there is government participation in a number of others that I mentioned. What they have done by way of government representation is something about which I do not know.

Mr. BASFORD: I think you should convey to your clients the statement made by the Secretary of State for External Affairs that the government had no intention whatever of declaring Sable island a geographic co-ordinate for purposes of drawing the baseline; and, secondly, that in the establishment of geographic co-ordinates Canada, being a member of United Nations, will act within the international law. It seems to me that that should be conveyed to your clients.

Mr. CORLETT: We are aware of that, sir, and I would accept the good faith of any statement by the hon. Mr. Martin, but again I do not know whether lawyers are suspicious or not, but we have to look to the future, or try to at any rate. I think you would agree that notwithstanding an assurance of a responsible minister of the crown today, it would not be binding on any future government of Canada.

Mr. BASFORD: I agree. I am wondering if Norway is a signatory to the Chicago convention.

Mr. CORLETT: Yes, they are.

Mr. BASFORD: You gave us a citation from Shawcross, paragraph 204. I am wondering what Shawcross has to say about the aeronautical jurisdiction of Norway which, of course, has established the headland to headland baseline principle.

Mr. CORLETT: The Shawcross book states this. It is something that occurred in Canadian litigation in 1932, Croft versus Dunphy, which went to the privy council. I was looking at the case before I came up here. That was a hovering case of a Canadian registered fishing vessel which was seized under the Customs Act when it was 11½ miles off the Nova Scotia coast, but then the jurisdiction for the purposes of hovering problems had been extended to 12 miles, or at that time had been extended for Canadian registered vessels, and the quarrel was whether that was out too far. Lord Macmillan made the statement that historically it was then, and I submit it still is, a fact that the three mile limit is the governing principle, but in certain cases, and he mentioned revenue cases, public health cases and fisheries cases, it is recognized that you can go beyond the three miles. The Norway case to which you are referring, I take it, was this fisheries case of 1951 before the international court.

Mr. BASFORD: Yes, but I think the cases you were citing are valid only in the case of the principle that you might have national jurisdiction beyond the three mile limit for certain limited purposes.

Mr. CORLETT: I would certainly not say that a state cannot unilaterally attempt to extend its jurisdiction for certain specific purposes, although, if I remember correctly, when this same bill was before the Senate committee, Mr. Affleck from the Department of Justice made the observation that this might not prevent some other state from challenging Canada's position in a court somewhere. I made the further point that if Canada is a party to the Chicago convention which talks of territorial waters, and Shawcross says that territorial waters for the purposes of the Chicago convention should be the three mile limit measured from the shore line, might we not then be in conflict with our obligations under the Chicago convention if the Canadian parliament amends the Aeronautics Act?

Mr. BASFORD: That is why I am asking you what Shawcross has to say about the Norwegian waters as Norway is also a signatory to the Chicago convention and also has a headland to headland three mile territorial sea.

Mr. CORLETT: It is a fact. He has a footnote and I am prepared to read it to you if you wish. It appears on page 176. He makes the general statement that by international law the sovereignty of a state extends to an imaginary boundary line three miles out from low water mark. Then he does have a footnote where he states that "this can be said to be the general rule. At various times and in regard to various places, larger claims have been put forward by states concerned. Originally based on the principle that *"terrae dominium finitur ubi finitur armorum vis"*, this rule has now received almost universal recognition."

That is all he says, but I presume that this second edition came out in 1951 and the international court did not hand its decision down until later this year.

Mr. BASFORD: This does not seem to have created a problem for Norway, the fact that they are signatories to the Chicago convention and also have a territorial sea envisaged by Bill No. S-17.

Mr. CORLETT: But not a sea that might go out as far as 90 to 100 miles, if Sable island were taken as a geographical co-ordinate.

Mr. BASFORD: The Norwegian sea does go out pretty far. I have no other questions.

Mr. MACLEAN (*Queens*): Mr. Chairman, my questions have been at least partially covered. I was going to ask the witness this; if, as a result of this



legislation co-ordinates were drawn in such a way that the corridor between Sable island and Nova Scotia would not be declared to be territorial waters, then, for the time being, your problem would be solved, I take it.

Mr. CORLETT: That is right.

Mr. MACLEAN (*Queens*): Secondly, as I understand what you have said, you think the way the bill is drawn an unnecessarily wide power is given by parliament in this bill which would allow future governments, or future ministers, at some time to reject the original decision on where these co-ordinates would be, and you have no assurance that at a later date, this corridor would not be taken in as territorial waters.

Mr. CORLETT: That is stating our case very well, I would say. That is the fear. If parliament, in its wisdom, decides that they are going to do something, then of course the international air lines will have to accept the will of parliament. However, the fear is that without having to come back to parliament you can have an executive decision made at some time in the future which might be detrimental to the position of these lines.

Mr. MACLEAN (*Queens*): I do not want to put words in your mouth, but am I correct in assuming that your hope would be that there be some amendment to the bill which would preclude this possibility of including this corridor as territorial waters especially if it is not intended by the government?

Mr. CORLETT: Yes. If the geographical co-ordinates were spelled out perhaps as a schedule to the bill, or in some other way, or there was an express exclusion of Sable island and the corridor as you put it, then our objections would be met.

Mr. CHATTERTON: Mr. Corlett, are your clients concerned about the change of the status of the gulf of St. Lawrence?

Mr. CORLETT: From an aeronautical point of view, no.

Mr. CHATTERTON: We were told here that all other countries that introduced similar legislation, such as Norway, South Africa, and the United Kingdom among others, drafted their legislation in the same way. In other words, their bills did not define the co-ordinates. Power was given to the government to define co-ordinates at a later date. Did your clients make representations to these other governments, and what was the outcome?

Mr. CORLETT: I am not in a position to answer that because I just do not know.

Mr. BARNETT: Mr. Chairman, first I would like to ask Mr. Corlett one question which arises incidentally from one of the questions asked by Mr. Pugh earlier. I was wondering whether any or all of the air lines using this corridor which we referred to, lying between Sable island and the coast of Nova Scotia, in the course of their flights travel over Canadian air space on the peninsular area of Newfoundland?

Mr. CORLETT: In some cases, yes, but in many cases, no.

Mr. BARNETT: I have another question which relates to this matter of internal waters. As I understand the proposed consequential amendments in part II, which include the proposed amendments to the Aeronautics Act, it is a matter of redefining or making specific the reference to territorial seas or inland waters, and I was wondering what status, if any, in respect of the waters of Hudson bay is established by the Chicago convention on civil aviation.

Mr. CORLETT: Well, the Chicago convention, to the best of my knowledge, of course would not specifically deal with this. So far as that goes, they talk of the territorial waters of Canada in the Aeronautics Act, sections 3 and 4, and I believe by some government decision some 30 years ago Hudson bay was declared to be within Canadian jurisdiction. But, from the point of view of an

airplane, I suppose it would not make any difference because if they fly over Hudson bay, then they are going to have to fly over a Canadian province or the Northwest Territories.

Mr. BARNETT: In other words, the point I am trying to get at is whether these air lines have any objection to the present arrangements for flying over such internal waters of Canada as Hudson bay or of other countries where a like situation might exist. Is that a problem?

Mr. CORLETT: We never have received any representations from any of these companies on this point and I find it hard to believe they could have any objection. Hudson bay is securely within Canadian territory and so far as the open sea section or the coasts are concerned I think it is a fact that now that we have this international agency named I.C.A.O., which has been operating very well for almost 20 years, it is the feeling of the international air lines that any problems which do arise and which go beyond the territorial waters could be handled through this international agency.

Mr. BARNETT: You made reference to the fact that your clients are not concerned at all with the west coast of Canada.

Mr. CORLETT: No.

Mr. BARNETT: Now, as you probably are aware, the proposal suggested in the fisheries council submission was that the waters of Queen Charlotte sound and Hecate strait, which some people contend are high seas, would be included within the baselines as drawn. I am wondering why it is there is concern about possible inclusion of this corridor between Sable island and Nova Scotia and no concern about such waters as Queen Charlotte sound.

Mr. CORLETT: Well, I think the reason, sir, is, of course, that the volume of traffic across the north Atlantic—and I have not the figures here to demonstrate my point; however, I am sure you are all aware of this—is getting larger by the year and, on the Pacific, it is not so important now. I know that Pan American, for instance, operates from Seattle and they used to operate to Whitehorse and then to Juneau or one of the Alaska centres. However, they now have dropped the Whitehorse run, which has been taken over by a local company. But, they do operate over the Queen Charlotte islands on their flights from Seattle to Alaska and they pay the Department of Transport so much a flight with a minimum of so much a month. But, there never has been any dispute about that.

Mr. BARNETT: Then, am I correct in assuming that the basic concern of your clients is not so much the question of whether or not they are going to be flying over the internal waters of Canada which may lie within the territorial sea but rather that the provision in the bill which leaves the question of just where these waters are or may be in the future is the important point.

Mr. CORLETT: That is the point.

Mr. BARNETT: They are concerned with the uncertainty on that question.

Mr. CORLETT: Yes. Also, I might mention this was one reason, I might say, aside from the legal points involved—and I assume this is known to the government—why the air lines were not so keen on this \$64 route facility fee which involved flying well beyond Canadian territories, even if it included Sable island; but, the feeling of the international air line was that if Canada by unilateral act did this and the airline under Canadian law had to comply with the requirements, then many other countries were going to start doing the same thing. As a result of the \$64 fee which was imposed by the Canadian government several years ago, but since withdrawn, the state of—I do not remember the name of it; but, it was French territory in northwest Africa where Dakar is located; and I hate to confess my ignorance but I will have



to—imposed a unilateral charge much the same as the \$64 one. Ireland put a charge which, I think, they have withdrawn, and I think quite understandably so. This is a problem that should be handled through the international agency.

The CHAIRMAN: Are there any further questions?

Mr. PUGH: I have a few more questions, Mr. Chairman, if no one else has any questions to put at this time.

Mr. RHÉAUME: Mr. Chairman, I just wanted to sort of summarize what has been said up until now.

From your clients' point of view, the happiest thing that could be written into the bill would be an exemption of the corridor between Sable island and Nova Scotia.

Mr. CORLETT: Yes.

Mr. RHÉAUME: And, that would be the best thing you possibly could hope to get out of parliament at this time.

Mr. CORLETT: Yes, or defining the geographical co-ordinates and we could see from that that it did not include Sable island, and then our fears would go out the window.

Mr. RHÉAUME: Or, an enactment in the legislation whereby it could not be done by order in council and that it would have to be brought back to parliament. That also would meet your wishes?

Mr. CORLETT: Yes, that would be quite acceptable.

Mr. RHÉAUME: But that would not be as good in terms of real security for the international carriers as a specific exemption of this corridor, in view of the heavy international traffic.

Mr. CORLETT: That is true.

Mr. CHATTERTON: If there is an exclusion made of that corridor in the bill do you still have any objection to the fact that the co-ordinates could be based in the sea, according to this bill?

Mr. CORLETT: Well, that is the way it appeared to me reading it, although my recollection is that someone raised this point either in the house on second reading or over in the Senate and there was another view that that could not be so.

Mr. PUGH: Mr. Chairman, I would like to get back to the zones that you mentioned. You say Canada has a zone; where are the other three zones?

Mr. CORLETT: Well, generally speaking, they take in the north Atlantic. I just have not the data here.

Mr. PUGH: Has the United States a zone?

Mr. CORLETT: They have what I call the southwest sector of the north Atlantic.

Mr. PUGH: And, we would have the northwest?

Mr. CORLETT: Yes.

Mr. PUGH: And then there would be two others?

Mr. CORLETT: Yes, the United Kingdom and Portugal.

Mr. PUGH: And, the purpose of that is for telecommunications and regulation of air traffic?

Mr. CORLETT: Air traffic control.

Mr. PUGH: This \$64 fee does not apply just to Canadian territory; it applies to the whole zone, does it?

Mr. CORLETT: To any flight operating in any part of this zone.

Mr. PUGH: Yes.

Mr. CORLETT: That would be subject to the \$64 charge.

Mr. PUGH: Well, now, you also mentioned that rather than Canada as a government just setting a fee for its service, control and communications, for anyone in that area you felt that it should be by way of convention through I.C.A.O.

Mr. CORLETT: Through I.C.A.O.

Mr. PUGH: What does that mean?

Mr. CORLETT: International Civil Aviation Organization.

Mr. BASFORD: Mr. Chairman, on a point of order; I do not wish to restrict Mr. Pugh unduly, but I am curious with regard to the relevance of these questions.

Mr. PUGH: I will not be restricted unless the Chairman says so. I am chasing it down for my own satisfaction simply because the two problems the witness mentioned are the \$20 fee and the \$64 fee. These are the problems which he said the air lines might face as a result of an extension of the territorial jurisdiction of Canada.

Mr. BASFORD: The division of the north Atlantic in the context in which Mr. Corlett is speaking is done by international agreement under these conventions.

Mr. PUGH: Would you bear with me for a few minutes?

The CHAIRMAN: I will hear Mr. Pugh.

Mr. PUGH: This northwest zone now must extend well into the Atlantic and well off the coast line of Canada, so any fee which is applied has nothing whatever to do with our territorial jurisdiction.

Mr. CORLETT: No; but we have been talking about the \$64 charge. It is a fact, of course, that it was withdrawn within the last year, so at the moment there is no \$64 charge being levied by the Department of Transport.

Mr. PUGH: You suggest that rather than Canada putting on this \$64 charge, we should do it through I.C.A.O., or some other such organization.

Mr. CORLETT: Yes.

Mr. PUGH: Is Canada presently taking steps to do that?

Mr. CORLETT: I do not know. I would hope they were interested; but what they are doing is something which I would not be in a position to know. I do know there is a large meeting of the I.C.A.O. countries, which would include Canada, scheduled for some time in January, 1965, I believe, to deal with this specifically.

Mr. PUGH: Because of an extension which might include Sable Island—an extension headland to headland over the three mile limit—you feel that Canada on her own jurisdiction and without going to any other organization well might put on a fee which would be binding on your air lines?

Mr. CORLETT: Yes; if the route was over an extended Canadian jurisdiction, that would be possible.

Mr. PUGH: Thank you.

Mr. MACLEAN (*Queens*): With the \$64 fee in effect, when aircraft, flying to Europe, came into this northwest area they paid the \$64 fee and in addition if they crossed Canadian territory, they had to pay the \$20 fee. They paid both fees.

Mr. CORLETT: Yes.



Mr. MACLEAN (*Queens*): And it is the fee at the moment, which is \$20, which is of chief concern to you, or which would be affected, or may be affected by this bill.

Mr. CORLETT: That could be a factor. As I said at the very beginning, the air lines cannot dispute the fact that they have to pay for services which might be provided by the Canadian government; but if you start extending the jurisdiction, based on the language of clause 5 of Bill No. S-17 as it presently exists, where will you end?

Mr. PUGH: Is there no central authority which pays Canada any money for these services in respect of telecommunications, weather, and so on?

Mr. CORLETT: Do you mean an international authority?

Mr. PUGH: Some body like I.C.A.O.?

Mr. CORLETT: No. Each state has been bearing the cost of the services which it itself provides.

Mr. PUGH: Canada would have to bear the cost of the total services in the northwest zone?

Mr. CORLETT: Yes, in the absence of Canada applying for an international joint support program which it could do under the existing I.C.A.O. or Chicago conventions.

Mr. PUGH: This is what you suggest they do rather than put it on themselves?

Mr. CORLETT: To us this would seem to be the logical way to do it.

Mr. DANFORTH: I do not know whether or not I understood it correctly, but I believe Mr. Corlett mentioned that Ireland and the other countries had imposed an additional fee, and then withdrew the fee as Canada withdrew the \$64 fee. Is this \$20 an international rate; are our air lines subject to the same fee when they are in the territorial boundary of any other country?

Mr. CORLETT: I do not think so. Each government will set its own fee based on what it considers to be a proper amount. Mind you, it may not stay at \$20; there is no law which says it must stay at \$20, but so far as I know that fee was selected by the Department of Transport.

Mr. DANFORTH: Then this particular fee could have a wide variation throughout the world?

Mr. CORLETT: Yes.

Mr. DANFORTH: In all countries where there are major air line facilities there is a like fee even though the scale may vary.

Mr. CORLETT: I think that is certainly true, yes.

Mr. DANFORTH: Can you give me any idea of the range in respect of these fees from \$20 downward, or from \$20 upward?

Mr. CORLETT: I am afraid I could not.

Mr. DANFORTH: As a committee we are not in a position to know whether our fee is similar to the fees of other nations, much lower or much higher.

Mr. CORLETT: No; I do not think I could answer that. It is my understanding that a number of the larger countries have lower fees, and that some would have higher fees, but I could not indicate which is which, or which group would be greater.

Mr. DANFORTH: Then we are not in a position to know whether our \$20 fee, plus the \$64 fee might be in accord with some fees paid by Canadian air lines in other parts of the world?

Mr. CORLETT: As much as I would like to help the committee, I am afraid I am not in a position to give information on that question; I just do not know.

Mr. DANFORTH: Thank you.

Mr. NOBLE: I am wondering whether there are air lines, other than the air lines represented by you, which are interested in this?

Mr. CORLETT: Yes. Lufthansa, the German air line, has a north Atlantic service, and I presume there would also be Air France. Then there is the Italian air line. There are other lines which we are not representing.

Mr. PUGH: There is no question in your mind that the services provided by Canada are excellent in respect of air control, telecommunications, weather reports, and all these things.

Mr. CORLETT: I have every reason to believe they are.

The CHAIRMAN: Gentlemen, are there any further questions? There would not appear to be. I would like to thank you, Mr. Corlett.

Mr. CORLETT: May I thank you, Mr. Chairman, and the members of the committee for your courtesy in hearing me for such a lengthy period of time; I appreciate it very much.

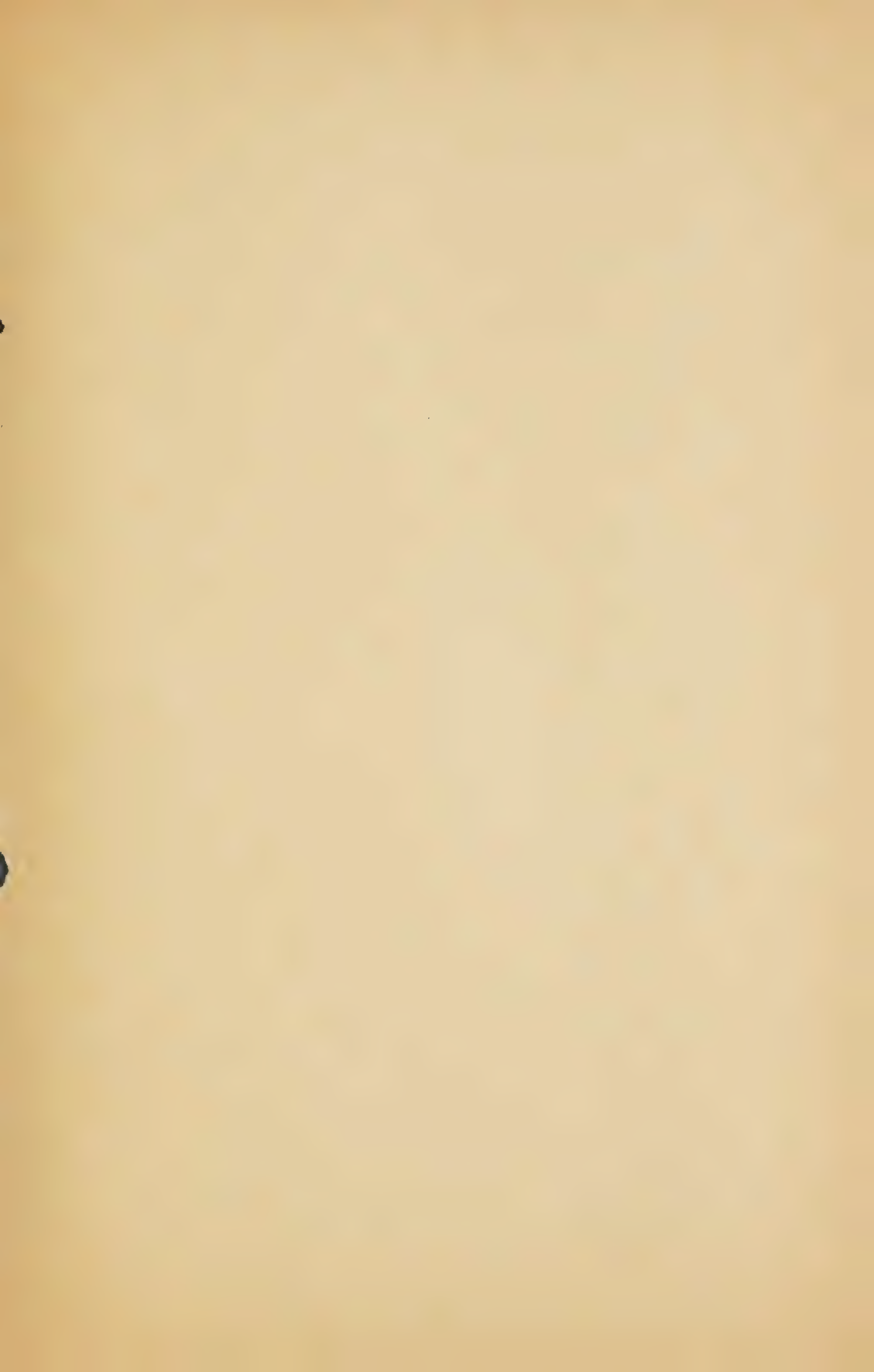
The CHAIRMAN: Thank you, very much. I wish to thank all the other officials and the minister for being present, and all the members of the committee for coming on what is an exceptionally busy morning at the beginning of a working week.

Mr. CORLETT: Thank you.

The CHAIRMAN: The committee is now adjourned until Thursday morning, at 9.30 a.m., June 18, when we shall hear Homer Stevens of the United Fishermen and Allied Workers Union.











HOUSE OF COMMONS

Second Session—Twenty-sixth Parliament

1964

GOVT PUBNS

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STANDING COMMITTEE

ON

MARINE AND FISHERIES

*Chairman:* Mr. C. R. GRANGER

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MINUTES OF PROCEEDINGS AND EVIDENCE

No. 3

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THURSDAY, JUNE 18, 1964

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RESPECTING

BILL S-17, An Act respecting the Territorial Sea and Fishing Zones  
of Canada.

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WITNESS:

Mr. Homer Stevens, Secretary-Treasurer, United Fishermen and Allied  
Workers' Union, Vancouver

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ROGER DUHAMEL, F.R.S.C.  
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1964



STANDING COMMITTEE ON MARINE AND FISHERIES

*Chairman:* Mr. C. R. Granger

*Vice-Chairman:* Mr. Alexandre Cyr  
and Messrs.

Armstrong,	Crossman,	Mather <sup>1</sup> ,
Barnett,	Crouse,	McLean (Charlotte),
Basford,	Danforth,	Mullally,
Bécharde,	Dionne,	Noble,
Bélanger,	Dubé,	Patterson,
Bigg,	Godin,	Pugh,
Blouin,	Groos,	Rhéaume,
Cadiou (Meadow Lake),	Howard,	Stefanson,
Cashin,	Leduc,	Stewart,
Chatterton,	MacLean (Queens),	Tucker,
Coates,	Macquarrie,	Whelan—35.

(Quorum 10)

M. Roussin,  
*Clerk of the Committee.*

<sup>1</sup> Replaced Mr. Webster on June 15, 1964.

ORDER OF REFERENCE

MONDAY, June 15, 1964.

*Ordered*,—That the name of Mr. Mather be substituted for that of Mr. Webster on the Standing Committee on Marine and Fisheries.

Attest.

LÉON-J. RAYMOND,  
*The Clerk of the House.*





## MINUTES OF PROCEEDINGS

THURSDAY, June 18, 1964.

(7)

The Standing Committee on Marine and Fisheries met at 9:45 a.m. this day. Mr. C. R. Granger, the Chairman, presided.

*Members present:* Messrs. Armstrong, Barnett, Basford, Béchard, Bélanger, Cashin, Chatterton, Crouse, Cyr, Dubé, Granger, Howard, MacLean (*Queens*), Mather, McLean (*Charlotte*), Mullally, Noble, Stewart, Tucker—(19).

*In attendance:* Mr. Homer Stevens, Secretary-Treasurer, United Fishermen and Allied Workers' Union, Vancouver, B.C.; and Mr. George North, Editor of "The Fisherman".

*Also in attendance:* The Honourable H. Robichaud, Minister of Fisheries; Mr. J. D. Affleck, Assistant Deputy Minister, Department of Justice; Mr. R. R. Macgillivray, Assistant Counsel, Department of Transport; Dr. A. W. H. Needler, Deputy Minister of Fisheries; Mr. S. V. Ozere, Assistant Deputy Minister of Fisheries; Mr. M. H. Wershof, Legal Adviser, Assistant under Secretary and Mr. M. A. E. Gotlieb, Deputy Legal Adviser, Department of External Affairs.

After having been introduced by the Chairman, Mr. Stevens read a prepared statement in connection with Bill S-17, and on behalf of the United Fishermen and Allied Workers' Union.

The witness was examined at length by the Committee.

The Committee agreed to hear officials of the Department of External Affairs and of the Department of Fisheries after the representatives of the Fisheries Council of Canada, on Monday, June 22.

At 12.30 p.m. the Committee adjourned until 10.00 a.m. Monday, June 22, 1964.

Marcel Roussin,  
*Clerk of the Committee.*





## EVIDENCE

THURSDAY, June 18, 1964.

The CHAIRMAN: Gentlemen, we have a quorum. We will now commence our meeting.

This morning we have with us Mr. Homer Stevens, Secretary-Treasurer of the United Fishermen and Allied Workers' Union, Vancouver. Mr. Stevens will be reading a brief, copies of which have been distributed to each member.

With Mr. Stevens is Mr. George North, editor of *The Fishermen*. I would ask Mr. Stevens and Mr. North to stand so that you may know who they are.

We also have with us the minister, officials from the Department of Fisheries and the Department of External Affairs, and in view of the fact they have been introduced at an earlier meeting I shall not reintroduce them now.

We will now ask Mr. Stevens to present his brief.

Mr. HOMER STEVENS (*Secretary-Treasurer, United Fishermen & Allied Workers' Union, Vancouver, B.C.*): Mr. Chairman and members of the standing committee, we are pleased to have this opportunity of presenting the views of our membership regarding the extension of Canada's territorial waters to the members of the standing committee. Our submission is presented on behalf of 9834 fishermen, processing and transport workers in the B.C. fishing industry whose livelihood depends upon protection and conservation of our marine fishery resources.

Before we proceed further, in view of the comments made in this committee on June 9, we would like to clarify our position regarding the "hearing" we were unable to have before the senate committee on banking and commerce. It has been suggested we "missed one deadline" even though we have been prepared on several occasions to submit our views.

It is a fact that we presented a brief on the question of extension of territorial waters to the standing committee on marine and fisheries of the House of Commons as long ago as May 28th, 1952. At that time, the central issue before the committee was whether or not the Tri-Partite Convention between Canada, Japan and the United States should be ratified by parliament. The convention applied to "all waters, other than territorial waters, of the North Pacific Ocean which for the purposes hereof shall include the adjacent seas." Therefore, the very first point in our brief contained a request to the committee to recommend to the House of Commons that Canada issue a legal proclamation extending the boundaries of our territorial waters using the Norwegian method of establishing base lines, as had been recently approved by the international court at the Hague.

It is a fact that on January 25, 1963, we submitted a printed appeal for action to save our Pacific coast fisheries to the Minister of Fisheries and to members of parliament in Ottawa. Our appeal dealt with the need for a new all-inclusive North Pacific Fisheries Treaty and declaration by Canada of a 12-mile territorial waters limit outside a "headland to headland" baseline. We urgently appealed for a hearing before the standing committee on marine and fisheries in a letter to the Prime Minister and the Minister of Fisheries on January 22, 1963. A study of *Hansard* will indicate several B.C. members of parliament, including one who is now a member of the cabinet, requested that our views be heard by the committee.



It is also a fact that we presented a 23 page brief on the subject of extension of territorial waters to the Minister of Fisheries on June 21, 1963. This arose out of the 90 minute interview with the Minister of May 1, 1963 in Vancouver during which we presented a memorandum of some 29 pages on fisheries conservation in the North Pacific Ocean and Bering Sea. In both documents we requested that we should be given an opportunity to present our views before this standing committee.

It may be of interest that on May 2, 1963 an official release by the Department of Fisheries quoted the Minister of Fisheries as saying: "As previously stated, it is my intention to convene the standing committee on marine and fisheries during the first session of the new parliament". Since this remark was preceded by reference to "establishment of a 12 mile limit", the "matter of adequate and more practical supervision of fishing operations on the high seas in areas controlled by provisions of existing treaties", the "provisions of the North Pacific Treaty", and "the need for negotiations for renewal of a treaty in order to further protect the interests of all concerned" we fully expected to have an opportunity to appear before this committee during 1963.

When Bill No. S-17 was placed before the Senate we received no notification of any kind from the Minister of Fisheries. In order to obtain a copy we wired Senator Tom Reid on May 1, receiving a reply dated May 4 enclosing a copy of the bill. Our general executive board met on May 7 and 8 and on May 8 we wired the Chairman of the Senate committee requesting a hearing during the week of May 25.

The Clerk of the Senate committee wired us on May 8 informing us we should present a written submission on May 13. We immediately wired back and followed with a letter pointing out we had agreed to meet the federal-provincial committee on wage and price disputes on May 13 in Vancouver. We enclosed a copy of the letter from the secretary of the federal-provincial committee dated April 24 confirming the appointment with the committee for May 13. We urgently requested a postponement, which request was denied, despite a supporting telegram from Senator Tom Reid who was out on the west coast at the time attending a meeting of the International Pacific Salmon Fisheries Commission. A copy of our letter to the Chairman of the Senate committee is appended for your further information.

When, on June 9, we requested an opportunity to be heard on June 22, we did so primarily because we felt we should not confine our submission to a review of past briefs or policy statements. We were unaware of any date having been set for our appearance, not having been notified, until the date of June 15 was mentioned during the morning session of the committee on June 9.

We had wired and written the Chairman on June 3 requesting an opportunity to be heard and requesting sufficient advance notice and an outline of committee procedures and the tentative schedule of meetings. The reply of June 5 did not indicate when we would appear, but did inform us the Secretary of State for External Affairs and the Minister of Fisheries would appear on June 9.

Naturally, we wanted to obtain all possible information regarding Bill No. S-17 and the government's intentions prior to making our submission, which is why we decided to be represented by an observer on June 9. Our general executive board scheduled a meeting for June 12 to review any new information received, and to finalize the main points of our submission. It was very obvious, therefore, that to appear on June 15, as suggested, we would be unable to do any more than review our previous briefs. This is why we requested the privilege of appearing on June 22. We felt we should be accorded equal rights with the employers organization, the fisheries council of Canada, in respect of time to finalize our brief.

These preliminary remarks are made in order to clear up any misunderstanding which may have arisen, either as a result of our non-appearance before the Senate committee, or of our request for a later appearance before this committee. We have been urgently requesting a hearing for 18 months, during which time we have written briefs on the subject. Nevertheless, we believe it is our duty to our members to present an up-to-date submission at this time, in which we will refer to past policy as well as present our views on today's problems and legislation which may be submitted to cope with these problems.

#### Historical Background of Requests by British Columbia's Organized Fishermen for Regulation and Control of Pacific Offshore Fisheries and Extension of Territorial Waters

In March, 1946 our union adopted a resolution at our annual convention dealing with the Truman proclamation, urging that Canada assume responsibility for regulation and control of our offshore fisheries, and to enter into negotiations with the United States "to define those zones in which Canada alone is responsible for regulation and control and those zones which Canada and the United States by treaty agreements, jointly undertake to regulate." We are attaching copies of our brief of June 21, 1963 for reference because this resolution and others adopted at later dates are fully quoted therein.

I should mention, Mr. Chairman, that I think most of the members of this committee have received a copy of that previous submission when we were here earlier this year.

During the past 18 years our proposals have been revised and amended in the light of international developments regarding distant water fishing as well as the trend in extension of territorial waters, claims for continental shelf jurisdiction and international fishery treaties. From the beginning we were extremely concerned over the growing exploitation of Canadian fishery resources by United States fishing fleets operating off the west coast including Hecate straits. We are still very much concerned, particularly as we read Hansard, over the obvious intention of the government to permit United States fleets to continue such exploitation forever.

As may be noted by reading our brief of June 21, 1963, as well as the Minutes of the Proceedings and Evidence of the standing committee on marine and fisheries of May 28, 1952, our views and recommendations regarding United States fishing operations altered considerably in 11 years. In 1952 we did not propose to change the status quo regarding United States fishing vessels operating up to three miles off our shores for certain species of fish. However, as United States fishermen increased the extent of their exploitation of our offshore fishery resources, and as more nations moved decisively to challenge so-called "historic rights", as well as to cancel out "treaty rights" we began to urge termination of all foreign fishing in areas encompassed by our proposal for 12 miles of territorial waters outside a headland to headland baseline.

Likewise, although our brief of May, 1952 proposed a nine mile territorial sea outside a headland to headland baseline, we have for several years strongly urged a 12 mile territorial sea. Our "nine mile" proposal in 1952 was based upon a similar Mexican declaration. Since then several nations have adopted a 12 mile limit, with some nations claiming jurisdiction out to the edge of the continental shelf.

In our brief of June 21, 1963 we pointed to two significant statements issued by the International Law Commission:

1. The commission recognizes that international practise is not uniform as regards the limitation of the territorial sea. It may be noted



that in 1930 at the Hague conference it was impossible to get agreement on any single resolution proposing an appropriate breadth of territorial seas.

2. The commission considers that international law does not permit an extension of the territorial sea beyond 12 miles.

Two important conclusions may be drawn. Firstly, there is no international law which prevents Canada from extending territorial waters beyond 3 miles. Secondly, although the Commission's statement is placed in a reverse manner it appears relatively clear that international law has been forced to recognize that extensions of territorial waters to 12 miles are permissible. In fact, since further extensions running out to as much as 200 miles are being enforced in some areas, it may soon be necessary for the International Law Commission to further amend its interpretation of what is "permitted" by international law.

On January 20, 1964 we summarized our earlier briefs and our proposals in a submission to the federal-provincial conference on fisheries development as follows:

- (1) Our union began pressing for an extension of Canada's territorial waters in March of 1946, almost 18 years ago. The demand of B.C. fishermen arose primarily as a result of the heavy fishing pressure applied by the United States fishing fleet along the west coast of Vancouver Island and in Hecate Straits. The later development of Japanese and Soviet Mothership fleets operating along the continental shelf of North America has added more voices to the demand for action.
- (2) In 1956, the Minister of Fisheries stated in parliament, and to our union convention, that Canada intended to establish a 12 mile limit outside a headland to headland baseline. Since that time it would appear that several retreats have been made to a "6 plus 6" formula in 1958, to a "3 plus 9" proposition in 1963 and to continued recognition of "historic rights."
- (3) The world trend is toward recognition of the right of every nation to a coastal band of, at least, 12 miles in which only the coastal nation's fishing vessels may operate. The world trend is toward cancelling out of past practices or so-called "historic rights" or agreements which formerly permitted foreign fleets to harvest fishery resources vital to the economy of the fishing industry of the coastal state.
- (4) There is no international law preventing Canada from unilaterally declaring a new 12 mile limit outside a headland to headland baseline and enforcing it on the fishing fleets of all nations. Canada has as much right to move against American and French fishing vessels as she has to move against Japanese or Soviet fleets which have, more recently, fished up to our 3 mile limit. If we practice discrimination in extension of our territorial waters by granting special privileges to one or two nations, we are betraying our national interest and creating more trouble in dealing with the other nations involved.
- (5) Since 8 years have elapsed since Canada's Minister of Fisheries first declared our government's intention of establishing a 12 mile limit, all nations have had ample warning. Canada is far behind many other nations in taking action. Modern fishing methods can cause serious depletion of valuable fish stocks if foreign fishing vessels are granted a "phase-out" period of 10, 5 or even 2 years.

Such foreign fleets may readily adopt the attitude they have nothing to lose in reckless harvesting as they will eventually be forced out of these waters.

We therefore, oppose a "phase-out" of foreign fishing inside the proposed new 12 mile limit.

- (6) Canada need not fear trade retaliation from the United States. The average excess of United States sales to Canada over United States purchases from Canada has amounted to \$687,000,000 per year for the past 16 years. (Our overall trade deficit with the United States from 1947-1962 amounted to \$10,994,721,747, whereas our exports of fishery products to the United States amounted to \$1,387,992,736.) Our exports to the United States consist primarily of raw materials to sustain American industry while Canada provides a huge market for United States manufactured products. If the United States of America starts raising tariffs or other restrictions against Canadian fish exports and Canada retaliated by raising restrictions on American commodities, the United States would lose more than Canada.

Our proposals may be summarized as follows:

- (1) Canada should unilaterally declare a full 12 mile territorial sea outside a headland to headland baseline drawn to enclose all bodies of water lying between Canada's mainland and Canada's offshore islands and to include all bays, inlets and straits. All fishery, mineral or other resources present within the boundary of this territorial sea to be the exclusive property of Canada.
- (2) Canada should inform all other nations we intend to enforce the new boundary fully and completely upon the nationals of other states without discrimination, without any "phase-out" period, and thus make it clear there will be no exceptions arising from past practice, historic rights, treaties or agreements.
- (3) Canada should proclaim to all other nations that Canadian fishing vessels will be required to observe similar proclamations by other states at least up to the 12 mile limit.
- (4) Canada should indicate a long term intention of asserting further rights designed to conserve fishery resources and protect the interests of Canadian fishermen to the outer limits of our Canadian continental shelf. Our statement should indicate that Canadian fishing vessels will be required to observe conservation measures imposed by other states along the continental shelf of such states.
- (5) The government of Canada should initiate a conference with the governments of British Columbia, Quebec, Ontario, New Brunswick, Prince Edward Island, Nova Scotia and Newfoundland in order to develop mutually acceptable policy regarding extension of Canada's territorial waters, enforcement and counter-measures in event of some form of retaliation by nations affected by the Canadian proclamation.

The history of our previous submissions should clearly indicate to this committee that our organization has developed very definite views on the subject of territorial waters and has expressed these views to the government. It will be equally clear that our views have not been incorporated into government policy as expressed in Bill No. S-17 or by the ministers responsible for current negotiations. Therefore, our opposition to the proposed policy and legislation clearly arises from the conflict between policy proposed by fishermen and policy adopted by the Government.



## The History of Canadian Government Policy Regarding Extension of Territorial Waters

"The time has come, in all this confusion in international law about the three mile limit and whether it should be three miles, ten miles or twelve miles, for a decision to be arrived at by someone. Somebody has to take the lead in this matter. I advocate now, without any reservation that Canada, which in international affairs is playing its part so brilliantly, now take the lead, and notify the other nations that it will extend jurisdiction over its continental shelf for the full twelve miles. That is quite a statement for me to make, but I am convinced that somebody must give the lead and I believe that Canada is the proper one to do it. This government must take its courage in both hands, make that announcement and stick by it. I believe that if we do that other nations will follow our example, and instead of having a three mile territorial jurisdiction, which is in dispute so often, we would settle this matter once and for all, and most of the countries in the world would accept the twelve mile limit."

The words are those of Mr. Stick, M.P. as reported in *Hansard* at pages 1967-8 on March 9th, 1956. Similar requests for decisive action by Canada were voiced by members of parliament from both coasts and from various political parties during the same debate. The Minister of Fisheries noted the wide area of agreement between representations he had received from Canadian fishermen and fishing industry groups and coastal members of parliament in his reply to the debate.

When the Minister of Fisheries addressed our annual convention on March 21, 1956 he said:

The first is the matter of territorial waters, a matter of extreme importance to us. A year ago in Rome the 55 nations of the world interested in fisheries met to discuss how best to conserve fish on the high seas and there was a split right down the meeting between two groups of states, what we call "freedom of the seas" states and "coastal" states.

"Freedom of the seas" states are those states who either have no fishing along their coasts or who have ruined their own fishing along their coasts and are anxious to go out and fish in other peoples' fisheries. The "coastal" states are, of course, like otherselves, who have good fisheries, have tried hard—the department, the fishermen and the industry—to cooperate in the conservation of them and who don't like seeing these strange fleets, which have ruined their own fisheries, coming and fishing in our waters.

It's an unusual division—the leaders of the "freedom of the seas" states, of course, are British, Japan and the United States. The leaders of the "coastal" states—the ones with the great fisheries—are ourselves, Russia, Norway and Peru; the countries with great fisheries. The other groups fall in behind.

This fall, the United Nations, at last, is having this as a major subject for discussion. We have had our experts in this country study the whole question, not only from the point of view of fisheries, but from transport and defense, of the value of the assets below the water, and we have now prepared our report, which will be submitted. I can tell you that the Department of Fisheries, the highest minister feels that the very minimum is, first of all, the Norwegian base line; whatever the territorial waters are, they are not going to follow the curves of the coast but go from headland to headland. I think that the very minimum for proper conservation of our fisheries is twelve miles.

The wave of applause by the assembled delegates which greeted this statement of policy, temporarily, prevented continuation of the minister's speech in regard to other major fishery problems. Our membership considered this to mean that Canada would move decisively for a full 12 mile territorial sea outside a properly drawn baseline. We believed it meant moving in accord with Norway, Iceland and other nations which had courage enough to stand up against the old "3 mile cannon shot" rules advocated by Great Britain, Japan and the United States.

On August 13, 1956 the minister was asked by Mr. Nowlan, M.P. to outline to the House of Commons what had recently been stated by Prime Minister St. Laurent in a recent speech. The minister said the Prime Minister "felt that the interest, especially of fisheries, could be much better served if we had a twelve mile territorial zone rather than the present three mile territorial zone. That certainly is something which the fishing industry and the fishermen's organizations across the country have been advocating for some time." Mr. Sinclair—*Hansard* p. 7528, August 13, 1956.

The changed wording of a twelve mile "territorial zone" instead of "territorial waters" or "territorial sea" did not appear, then, of any significance. The *Vancouver Province* in an editorial in August, 1956 said: "Prime Minister St. Laurent's decision that Canada's territorial waters should be extended to 12 miles offshore and should be measured from straight base lines instead of from the sinuosities of the coast is an important one—and most particularly for this province." The editorial warned of delay "in the slow grinding mills of diplomacy" and called for a "more emphatic position". "The International Law Commission has held that 12 miles is an acceptable limit" the editorial continued. "As for the measurement of straight base lines—there is already a legal precedent in the decision of the International Court of Justice approving a similar action by Norway.—Surely with precedents such as these there is no need for delay." the editorial concluded.

Nevertheless, the government did not "take its courage in both hands, make that announcement and stick by it." On March 17, 1958 the Hon. George A. Drew, chairman of the Canadian delegation to the international conference of the law of the sea spoke against extension of the territorial sea to twelve miles. He called attention to the "Canadian proposal" saying: "It was put forward at the general assembly of the United Nations on December 7, 1956, by the representative of the preceding government in Canada. It was repeated in a memorandum to the Secretary General of the United Nations by the present government on September 10, 1957 and it has received general approval by all parties in the Canadian parliament. We believe Canada should be able to reserve exclusive fishing rights for our fishermen within a contiguous zone of 12 miles from the coastal baseline as defined by Articles 5 and 6."

Whether this change from a "twelve mile territorial sea" to a "twelve mile exclusive fishing zone" was ever approved by all parties in the House of Commons is highly debatable. We do know the change was never approved by the fishermen in our union.

On January 15, 1960 the Hon. Howard Green outlined the position Canada would take at the second United Nations conference on the law of the sea. He indicated Canada would "seek support" for a "practicable and workable compromise between the positions of those states, the Soviet bloc and others, on the one hand, which favour a twelve mile territorial sea, and those maritime states, the United Kingdom, the United States and others, on the other hand, which are seeking to preserve a narrow territorial sea and historic fishing rights." Mr. Green said: "It is the intention of the government to take an important initiative at the conference by putting forward a proposal for a six-mile territorial sea and for a twelve-mile fishing zone reserved exclusively for the fishermen of the coastal state."



The Canadian "compromise" was opposed by our union as a retreat from the original declaration by the Minister of Fisheries in 1956. We made our opposition to this retreat known, pointing out that Canada should stand side by side with the "coastal" states as they were dubbed by the minister and approve the continued adherence efforts of the "freedom of the seas" states to antiquated concepts of such "freedom".

Then, on June 4, 1963, the Prime Minister announced Canada would:

1. "Establish a 12 mile exclusive fisheries zone along the whole of Canada's coastline as of mid May, 1964,"

2. "Implement the straight baseline system at the same time as the basis from which Canada's territorial sea and exclusive fisheries zone shall be measured."

He also indicated he had given assurances to the late President Kennedy regarding "the long standing American position in support of the three mile limit," as well as "the 'historic' and treaty fishing rights of the United States of America." He also indicated "full account" would be taken of "treaty and 'historic' fishing rights" claimed by the United States of America and France.

The contradiction between "an exclusive fisheries zone" and continuation of "historic and treaty fishing rights" was obvious to all fishermen. We also noted the retreat from a "six-plus-six" formula to a "three-plus-nine" formula. These compromises with the basic principles advocated by the previous Minister of Fisheries, who had correctly linked Canada with the "coastal" states in favour of an extension of territorial waters to 12 miles, did not pass unnoticed. The livelihood of Canadian fishermen had been jeopardized by the "compromise" at Geneva and was further sacrificed by the "compromise" at Hyannis Port.

On June 3, 1960 we stated "our support for the courage and tenacity of the government of Iceland, a tiny nation of 164,000 people which has effectively challenged the United Kingdom and other countries of Europe. The British navy was brought into play, economic blockades and sanctions were attempted but these attempts failed and the British navy and the trawl fleet remain outside Iceland's twelve mile limit. For the sake of a questionable alliance with the United States we are allowing the further rape of our fisheries. The nations of the world are split on this question and there will be no universal agreement for some time. More and more nations will be moving for a full twelve mile limit and will, historically speaking, be making progress towards a goal desired by fishermen of Canada."

We urged all members of parliament "to take a position favouring a declaration by Canada of the 12 mile limit outside a headland to headland baseline drawn to include Hecate Straits and similar waters" in definition of our territorial waters. We suggested if this were done Canada "may earn some real respect from our cousins south of the 49th parallel who have so far taken Canada for granted as an area and a people to exploit."

Similarly, on June 5, 1963, we drew attention to the fact that "the whole concept of a 12 mile limit has been in direct conflict with so called "historic rights". Again referring to Iceland we said "courage and determination can win recognition of the 12 mile limit to the absolute exclusion of all foreign vessels from newly designated national waters." We stated outright opposition against "giving away of Canadian fishing resources" by continued recognition of American and French treaty and or historic rights.

Despite these protests, it now appears from the remarks of the Secretary of State for External Affairs and the Minister of Fisheries in the House of Commons, as well as before the Senate committee and this committee on marine and fisheries that the government is determined to proceed with another give-away of fishing resources which are rightfully claimed by Canadian fishermen as exclusively Canadian resources. We sincerely hope we can present sufficient

information and logical argument to convince the members of this committee that the time has come for Canada to "take its courage in both hands" and act decisively in the interests of Canada's fishermen.

#### Basic Conflicts Between Nations Extending Territorial Waters and Nations Favouring Freedom of the High Seas

In his outline to the committee, the Secretary of State for External Affairs referred to similarity between executive action by the governments of Norway and Iceland and the proposal whereby the Canadian cabinet would be authorized to proclaim a base line and a contiguous fishing zone. The similarity of approach appears to be confined to the question of whether parliament or the executive makes the decision.

Any serious examination of the Icelandic government's basic approach quickly reveals they faced up to the essential point of conflict, which always arises when territorial waters are extended and/or fishing zones are added to territorial waters for the exclusive use of the coastal state. Similarly, Norway and the Faroe islands have had to come to grips with the same basic contradiction.

The essence of the conflict is that freedom of all nations to exploit marine resources close to the shores of a coastal state is entirely incompatible with action by the coastal state designed to obtain exclusive control over and usage of adjacent marine resources. The coastal state, if it is to gain exclusive control and usage of such marine resources must challenge all claims by other nations to continue exploitation whether such claims are based upon ancient treaty rights, so-called "historic" rights or antiquated theories of "freedom" of the high seas.

The tenacity and courage of Iceland and Norway are shining examples of recognizing the basic area of conflict and exerting determined effort to overcome the opposition of powerful neighbors bent on continued use of fishery resources. Retaliation by such neighboring states neither frightened them into capitulation nor did it, in the long run, adversely affect the health of the Icelandic or Norwegian fishing industry.

Obviously, if the choice must be made between exclusive harvesting of resources with a 12 mile belt of water and complete exclusion from normal export markets, the coastal state must carefully examine the alternatives. Failure to exclude all foreign fleets can lead to devastation of the essential base for the coastal nation's fishing fleet and industry. At very least it can perpetuate disappearance in foreign bottoms bound for foreign markets of a large portion of the catch which could be readily harvested by the coastal state's own fishermen. Thus, not only a large portion of the catch, but also a large portion of the potential market is automatically lost.

On the other hand, if the coastal state enforces exclusive fishing rights the neighboring state or states may exact a penalty by restricting imports of fishery products. In that event the harvesting of the resource could be adversely affected by loss of an available market.

Iceland faced the alternatives in her "codfish war" with Great Britain. She was able to increase exports of fish and fish products to a number of nations, including both the United States and Russia, to offset the British import restrictions. Eventually, British restrictions were eased considerably and Iceland now appears to have a 12 mile exclusive fishing zone, as well as adequate markets for the harvest reaped therefrom.

Norway, although recognizing certain transitional periods for foreign fleets in the outer six miles of her twelve mile fishery limits, is still contending with threats of "economic isolation". "In a statement to the 16 nation European Fisheries Conference in London, February 28, 1964, Norway affirmed that it could not subscribe to the new "6 plus 6" fisheries convention which was signed by



13 other countries. Norway objected to the provisions in the treaty which would recognize foreign fishing rights in the 6-12 mile coastal zone. (The Norwegian parliament had previously authorized local fisheries limits extending a full 12 miles.)" (News of Norway—March 5, 1964.)

The article further states "it is of great economic and social importance to us to maintain our present fishery zone. It would be a heavy burden for our fishing population if all other countries permanently were to fish in all waters up to our 6-mile limit. . . ."

"The London conference will now discuss future policies to guide trade in fishery products. Here, vital interests are at stake for us. It will be a crucial political and diplomatic task to prevent a commercial isolation which, in the long run, can prove costly for Norway."

These quotations from Norwegian newspapers were reprinted in "Commercial Fisheries Review" a United States' Government periodical. Nowhere, is there any indication the government of Norway will capitulate to attempts at economic retaliation. Having weighed up the alternatives they have chosen to protect their resources first and foremost, and simultaneously to put up the strongest possible battle against "isolation" in fishery trade.

It may be of interest that Norway, Iceland and Switzerland were opposed to the 13 nation "6-plus-6" treaty and refused to sign. It is also notable that the 13 nation treaty permits signatories to withdraw after 20 years. Denmark, in signing the treaty, made it "clear that while Denmark was willing to allow traditional fishing rights to British vessels in Danish waters, similar rights could not be granted around the Faroes and Greenland". (The Fishing News—February 7, 1964 U.K.)

The same article mentions dangers of a "rift that might follow the exclusion of British fishing vessels from Danish waters, or those of her dependencies, the Faroe islands and Greenland." It speaks of "growing concern among British fishermen, that while they are being denied access to grounds they have fished for decades, British markets remain open to all."

According to the Commercial Fisheries Review: "The Faroese fishing limit of 12 nautical miles came into effect March 12, 1964, ending the fishing rights of British trawlers in the 6-to-12 mile zone around the Faroe islands. The limit will also prevent Soviet fishermen from entering the Faroese 12-mile coastal zone to transfer catches."

"The Faroese Lagting intends to make fishing limit violations more costly by increasing the minimum fine for illegal trawling from 10,000 kr. (U.S. \$1,450) to 30,000 kr. (\$4,350). The catch and gear of vessels violating the limits will also be subject to confiscation."

Almost immediately British fishing groups moved to restrict "Faroese landings and shipments to "about one-third less than the value of average Faroese fishery exports to Great Britain during 1961-63."

In order to overcome these restrictions the Faroese government obtained credit from Denmark "for the construction of a fish fillet-processing plant with an annual capacity of 3.3 million to 4.4 million pounds of fillets." Also greater sales of fillets "for United States and continental markets" were contemplated. It is noted that "United States imports of frozen fillets from Faroe islands increased from 1,159 tons in 1961 to 2,725 tons in 1963". Moreover, "Danish, Faroese and British interests are reported to be preparing to establish a joint company to handle imports of Faroese fish into Grimsby, England where it is thought the limitations on Faroese shipments may not be as restrictive."

The foregoing examples of conflict over extensions of exclusive fishing rights clearly demonstrate that economic blockades can be weighed up, and overcome.

The present Canadian approach appears to be to avoid any open conflict involving markets even if the price is complete capitulation to American demands for continuation of "treaty" and "historic" fishing rights, forever.



In order to place the question of economic retaliation in perspective we should first examine the facts. A recent review of United States Fishery Landings and Imports stated: "A record 11.2 billion pounds of fishery products were landed and imported in the United States in 1963... For the first time, imports accounted for more than half of the total supply of fishery products in the United States. Landings by domestic fishermen in 1963 provided only about 42 percent of the total..."

In other words 58 per cent of total fishery landings in the United States were imported from other nations. This would indicate a growth of demand which may count heavily against United States restrictions on Canadian exports.

Only recently, an article in the National Fisherman of Maine reported fears by the Associated Fisheries of Maine of a "reduction in tariffs and duties on imported fisheries products." This fear may be groundless, but the direction of lowered tariffs would be in keeping with American proposals regarding other areas of trade between Canada and the United States. It is very obvious that raising tariffs on Canadian fishery products would be directly opposite to general United States policy at this time.

We have attached tables on the value of exports of Canadian fish and fishery products to the United States and all countries over the period from 1947 to 1962. During these 16 years our fishery exports totalled \$2,013,208,400 of which 68.95 percent or \$1,387,992,736 was exported to the United States market. Percentage-wise the peak year in exports to the United States was 1952 when 74.7 percent of our total fishery exports were to the American market.

West Coast fishery products included substantial volumes of herring meal and oil, fresh and frozen halibut, fresh and frozen salmon, canned salmon, crab, clams, and groundfish fillets. We have not attempted to present any breakdown of volume and values by species nor to evaluate exports from Canada's east coast. We sincerely believe it is possible to open new markets for Canadian fish and fishery products in many countries of the world. We are not suggesting this could be done overnight. We are not saying that we should aim at exporting all our fishery products to markets other than the United States. We are, however, of the firm opinion that over-reliance on the markets of one nation for disposal of 69 percent of the products of our fishing industry is not in our best interests. Greater efforts should be made to diversify our exports thus placing our industry in a healthy position to meet any changes in United States tariffs or in demand in the United States market.

For example, our Canadian west coast herring fishery relies almost entirely on meal and oil markets. Other nations, including Norway, Iceland, Japan, the Soviet Union and the United Kingdom utilize substantial volumes of herring as food fish. At one time Canada exported major portions of our herring catch in salted or canned form. It would be of great economic benefit to fishermen and processing workers if special efforts by government and industry lead to diversification in processing and marketing.

We have also presented a table on Trade of Canada with the United States in all commodities for the period 1947-1962. The outstanding fact is that in 16 years our purchases from the United States exceeded our sales by the huge sum of \$10,994,721,747. The average imbalance amounted to \$687,170,060 annually.

Canadian fish sales are only a tiny fraction of our total sales of all commodities of the U.S. In fact, they amount to only a fraction of the value of the excess of sales over purchases by Americans in trade with Canada.

We are all aware that our sales to the United States are largely in the form of raw materials to supply the United States industry. Raw pulp, newsprint, nonferrous metals and products, mostly in the form of raw ores and metals,



iron ore, non-metallic raw minerals are heading the list. While we export these raw materials to sustain American industry Canada provides a huge market for the products of U.S. industry. There is a growing understanding in Canada that we would be better off developing secondary industry in order to use a higher percentage of our raw materials to provide needed employment for Canadian workers.

A separate brief could be prepared on the subject of Canadian-U.S. trade and development of the Canadian economy. Our main point here is that Canada need not fear American trade reprisal in fish products. Trade is a two way street and if barriers are raised on one side there is no doubt that Canada could retaliate very sharply against United States manufactured products. Basically, the Americans have more to fear from the consequences of such measures. Greater independence in usage of our wealth of raw materials and in our trading policy would be of great value to Canada. We are quite sure the United States Government does not want to stir up trouble which would reduce United States export markets and develop more secondary industry in Canada.

We have posed the potential dangers arising from clear-cut courageous action by Canada to assert our sovereignty over a full 12 miles of territorial sea outside a headland to headland baseline. In so doing we have tended to ignore all the fine phrases about our wonderful friends with whom we always have harmonious relations because they always listen to our side of the story. In doing so we may be openly or secretly accused of undue mistrust or hostility towards our American cousins. If, indeed, we are unable to appreciate all the fine words it may be because we have had first hand experience to the contrary.

We remember very well that it required more than explanation of the injustice of Americans taking 65 per cent to 70 per cent of the annual Fraser river pink run to obtain a treaty revision providing for a 50-50 split. Our Canadian Minister of Fisheries in 1955 had to encourage a second major fishery, in an area where we could get first crack at the migrating salmon and declare we would out-fish the U.S. fleet, even at the expense of conservation, before they agreed to negotiate.

We can remember U.S. attempts to gain control over a much wider area of our coastal waters involving a greater share of Canadian salmon for American fleets. At one stage they ran a huge bluff, threatening to end negotiations regarding pink salmon unless the treaty area was widened as they had proposed. When our Canadian negotiating team refused to back down the Americans withdrew their threat.

Likewise we remember the negotiations between Canada and the United States over the establishment of a "surf line". This line was to be drawn tightly along the coast of California, Oregon, Washington, British Columbia and Alaska. Its purpose was to prevent development of American and Canadian high seas salmon net fishing. The scientific and economic arguments for preventing a mad race to intercept homeward bound salmon on the high seas were fully supported by the majority of fishermen in Canada. Similar declarations of support were made by American fishermen.

Nevertheless, in windup sessions, the Alaska representatives said they could not produce a chart showing exactly where the Alaska surf line would be drawn. Months later they produced the chart with their surf line drawn 3 miles offshore. This gave them added advantage in interception of sockeye and pink salmon bound for Canadian rivers. They ignored the fact that our British Columbia net fishermen were not allowed to go 3 miles offshore because our Canadian surf line followed the beach and cut closely across the mouths of our bays and inlets. In a meeting two years later the Alaskans refused to alter their line, and it remains unchanged seven years after the original piece of double-dealing was accomplished.



Many words have been used to describe the wonderful harmony involved in the International Pacific Salmon Commission between Canada and the U.S.A. Without any doubt it is a good example. We know it's history and could relate many areas of friction. We refrain from this because, in general, the success outweighs areas of conflict. But, we ask this committee and all members of parliament to realize, that this international commission involves sharing half of the sockeye and pink salmon runs to a wholly Canadian river with the Americans. The Fraser is our largest producer of salmon in B.C. The gains by American fishermen are far in excess of any cost or effort by them in maintaining proper conservation. Half of the Fraser river sockeye and pink catch is a tremendous asset to American fishermen. Without it the Puget Sound salmon fishery would be only a tiny fraction of its present size and value.

In northern B.C. we have the Skeena and Naas rivers, two important salmon producers. The U.S. fishery has intercepted, off Noyes island using a net fishery up to 3 miles offshore, major portions of salmon runs bound for these two Canadian rivers. Several years ago it was agreed that a joint tagging program would be undertaken to determine the extent of U.S. interception of Canadian salmon. Despite repeated requests by Canadian fishermen the results of the study remain unpublished. The only reason advanced is that Canadian and American scientists have been unable to reach agreement on the text of the report which should have long since been published. We strongly believe the Americans object to an objective report which would clearly expose the extent of their exploitation of northern Canadian salmon runs.

The Alaskan Panhandle cuts across the mouths of several Canadian rivers, two of which are of considerable size, the Stikine and the Taku. Both are navigable in small boats for many miles upstream into Canadian territory. The entire catch of salmon bound for Canadian spawning grounds, in these and other south-eastern Alaska rivers, is harvested by American fishermen. We know that United States fishery scientists receive annual permission from Canada to observe spawning conditions in these rivers. We have yet to hear of any proposal from the United States to allow Canadian fishermen to harvest a share of the rich salmon runs as they migrate towards their Canadian birth places. On the contrary, any time a Canadian salmon fisherman drifts over the Alaskan boundary he faces severe penalties in United States courts for the offence of daring to be in a position where he may share in that harvest.

In essence, while United States salmon fishermen harvest an equal share of Fraser river sockeye and pinks, a large portion of Skeena and Naas salmon and the entire production of Stikine, Taku and other northern Canadian rivers, the Canadian fishermen are denied any real share of salmon bound for United States rivers.

There are a few exceptions, such as minor Canadian catches of coho and springs, and on rare occasions, catches of pinks, bound for rivers in the state of Washington. The total of these Canadian interceptions are a tiny fraction of American interception of Canadian salmon. Yet we hear many screams of agony from American officials and fishermen any time we intercept a few of their fish. The extent of American salmon trolling off the west coast of Vancouver island and in Hecate strait has never been clearly defined. The Canadian Department of Fisheries' estimate of American troll catches of 5,000,000 lbs., of which it is estimated 3,750,000 lbs. was taken inside a 12 mile zone in 1962, is probably a conservative figure. Troll caught spring salmon are worth 50 cents-80 cents lb. landed and troll caught coho are worth 35 cents-45 cents lb. landed in Seattle. Thus, about \$2,500,000 worth of salmon annually is taken off our shores by American salmon trollers. Salmon trollers, incidentally, are not bound by the surf line restrictions which prevent offshore



salmon net fishing. Here, then, we have added exploitation of salmon bound primarily for Canadian spawning grounds.

The American trawl catches off Canadian west coast fishing grounds, inside a 12 mile belt, have been estimated at 18,000,000 lbs. by the Department of Fisheries, out of a total trawl landing of 44,060,000 lbs. in 1960 by Canadian and American fleets operating off the west coast of Queen Charlotte islands and Hecate straits.

The Canadian trawlers, in 1960, landed a total of 21,217,200 lbs. of which 6,408,000 lbs. were taken in Canadian waters inside Vancouver island (i.e. between Vancouver island and the mainland where the U.S. trawlers are already excluded). Thus, the total Canadian trawl landings along the west coast of Vancouver island, Hecate straits and Dixon entrance was 14,809,200 lbs. No statistics are available to show the percentages caught inside our present 3 mile limit, how much was taken in a 3-12 mile zone or how much was taken in water which could lie outside a 12 mile line measured seaward from a headland-to-headland baseline.

However, it is evident that U.S. trawlers landed 29,250,800 lbs. or twice as much fish off our Canadian west coast shelf than did our own draggers. Not only do they take two thirds of the trawl catch off our West Coast, but they have completely dominated the trawl production southward along the coast of Washington, Oregon and California. Actually United States trawlers landed 110,009,300 lbs. of fish in 1960 compared to 21,217,200 lbs. by Canadian trawlers or well over five times our catch.

According to an article in the *Seattle Times*, dated March 30, 1963, the state of Washington Fisheries department "statistical records show that the Washington fleet has for the past three years caught 61 percent of its total annual catches off the west coast of Vancouver island and in the Hecate strait-Goose island grounds. If the 12 mile limit were put into effect, considering the prominent headland terms of reference, about 75 percent of the Washington catch off British Columbia would be affected; this would amount to one half of the total annual Washington landings". This is in reference to bottom fish.

As for salmon trolling the same report says: "The troll salmon fisheries carried out by the State of Washington land approximately 45 percent of their catch from off the West Coast of Vancouver Island. Approximately 30 percent of the total Washington catch of troll chinook (spring) and silver (coho) salmon is caught within the 12 mile limit off the Vancouver island coast."

Canadian fishermen take almost no groundfish or salmon off the U.S. Pacific coast. Therefore, it is a one-way street. It explains why Canadian fishermen demand exclusion of United States fishermen from a full 12 miles sea measured outside a baseline. It explains why we do not fear American action to declare a similar 12 mile limit off their shores. It explains why Americans are anxious to retain forever the so-called "historic and traditional" fishing rights as well as the treaty rights. It explains why we are, as fishermen, prepared to meet, head on, any attempt at retaliation by U.S. imposed trade barriers.

We ask this committee to weigh the alternatives. In so doing, we ask you to think of Canadian fishermen, whose resources are intercepted and harvested off our very doorstep. We see no advantage in watching United States trollers and draggers load up with salmon, cod, flatfish, etc. and making off to their home ports, when, in all justice, the fishing areas concerned rightfully come within legal extension of our territorial waters.

If justice prevails, we are convinced Canada could win any moral or legal claim for complete sovereignty over the 12 mile sea measured from a baseline. If might is right, then we may face problems similar to those encountered by Iceland. In our modern world the "might is right" theory does not always win out in practice. Otherwise Iceland would have lost out in her tussle with

Britain. Because of greater developments since then, we believe Canada has an even better chance to win justice. At least the pathway has been illuminated by the courage of the Icelandic people.

The United States and Canadian landings of halibut have been compared by the Canadian Department of Fisheries in areas within a 3 to 12 mile zone off Alaska and B.C. From these figures it may appear we could lose approximately 250,000 lbs. annually if we traded catches in the 12 mile zone. We favour the trade, despite their estimates. Our position is that all nations have a basic right to exclusive use of fishery resources inside a twelve mile limit. We cannot expect to have our cake and eat it too.

We have noted that Alaska has already adopted a baseline system. Their "3 mile limit extends seaward several times that distance in many areas. Their line across Bristol bay is approximately 140 miles from headland to headland. They have enclosed Shelikoff strait, lying inside of Kodiak island, an action similar to enclosure of Hecate strait. Their legislature has gone on record favouring a 40 mile fishing zone off their coast. These actions, and proposals, have not yet been approved by the U.S. State Department but the handwriting was on the wall when they seized Japanese fishing vessels in Shelikoff strait.

On June 28, 1963 Senator Gruening introduced a bill into the U.S. Senate calling for a study of fishing by foreign nationals in coastal waters up to 12 miles offshore. The bill would empower the President of the U.S.A. to prohibit fishing by "nationals not of the U.S." in some or all of the waters up to 12 miles offshore and to establish 12 mile conservation zones in which U.S. regulations would be applied: In his introduction to the bill, Senator Gruening stated: "I can find no cause to grumble because Canada realistically has extended its maritime jurisdiction from the traditional 3 miles to the realistic 12 miles. Indeed, I admire and commend Canada for taking this action in behalf of its fishermen and its economy. I suggest that the United States pursue a similar course of action. I am introducing a bill today which would, under certain circumstances, extend the territorial waters of the United States to twelve miles for fishing purposes."

Senator Gruening entered into the record the following letter from the Department of State:

Hon. Ernest Gruening,  
U.S. Senate.

Dear Senator Gruening:

A representative of your office recently requested a list of countries which claim more than 3 miles of territorial sea or exclusive fishing rights. A comprehensive survey of such claims was made in connection with the two United Nations Law of the Sea Conferences held at Geneva 1958 and 1960, and a synoptical table was prepared by these conferences showing the breadth of the territorial sea and adjacent zones claimed by the various states. A reproduction of the table is enclosed for your information.

Since that time several countries have made claims to an extended territorial sea or exclusive fishing zone. A summary of such claims since the 1960 Law of the Sea Conference, based on information reaching the department, is also enclosed. In addition to the countries which have asserted claims, a number having indicated that they intend to do so. Legislation has been introduced (1) in Colombia to extend the territorial sea from 6 to 12 miles; (2) in Ghana to establish a 12-mile territorial sea, with an undefined protective area seaward of this, and up to 100 miles of fishing conservation zone; (3) in South Africa, Costa Rica, and Turkey to extend the territorial sea to 6 miles with a 6-mile



contiguous fishing zone; and (4) in the Ivory Coast to extend the territorial sea to 12 miles. Moreover, Canada recently announced a decision to establish a 12-mile fishing zone, and the United Kingdom has renounced certain fisheries treaties apparently as a first move toward abandoning the 3-mile limit for fisheries.

I hope this information will be helpful to you.

Sincerely yours,

Frederick G. Dutton,  
Assistant Secretary.

The CHAIRMAN: Gentlemen, as this is a very long brief would it be the wish of the committee to have a short recess.

Mr. HOWARD: It depends on Mr. Steven's vocal cords.

The CHAIRMAN: I was thinking of him; he has been reading steadily for about an hour. I am also thinking of the interpreters.

Mr. BARNETT: I think a 10 minute coffee break would be acceptable, if we can discipline ourselves to come back.

Mr. HOWARD: I move that we recess for 10 minutes.

Mr. CASHIN: I second the motion.

On resuming.

The CHAIRMAN: Let us now resume. Mr. Stevens will continue with his brief.

Mr. STEVENS: The following is a summary of unilateral claims to extended territorial seas or exclusive fishing zones, since the 1960 United Nations conference on law of the sea. This was attached to the letter which I just read:

Albania

March 1, 1960, restricted innocent passage in a 10-mile territorial sea. Fishing jurisdiction claimed to 12 miles.

Cameroon

June 23, 1962 claimed a 6-mile territorial sea.

China

While the Republic of China recognizes the 3-nautical-mile territorial sea, Communist China claims a 12-mile territorial sea.

Denmark

June 1, 1963, extended the fisheries limits for Greenland to 12 miles. A similar limit for the Faroes Islands will take effect March 12, 1964. Certain countries are exempted from the Greenland limits until May 31, 1972?

Malagasy Republic

February 27, 1963, claimed a 12-mile territorial sea.

Morocco

Extended fishing jurisdiction to 12 miles, except for the Strait of Gibraltar, for which such jurisdiction was extended to 6 miles.

Norway

Extended fisheries jurisdiction to 6 miles on April 1, 1961, and to 12 miles on September 1, 1961.

Senegal

June 21, 1961, claimed a 6-mile territorial sea, plus a 6-mile contiguous zone.

Sudan

August 2, 1960, extended the territorial sea to 12 miles.

## Tunisia

July 26, 1962, extended the territorial sea to 6 miles with an additional 6 miles of fisheries jurisdiction for a portion of its coast from the Algerian border to Ras Kapoudia, and extended the territorial sea from there to the Libyan border to the 50-meter isobath line.

## Uruguay

February 21, 1963, claimed a 6-mile territorial sea plus a 6 mile contiguous zone for fishing and other purposes.

We also list an extract from the synoptical table produced at the law of the sea conference on Feb. 8, 1960 showing nations claiming more than three miles. List of Nations with Territorial Limits in Excess of Three Miles—Either For All Purposes or For Fisheries only:

State	Territorial waters	Fisheries only
(b) Albania	10	

Some of these as you will note have been amended by more recent action. For example, Albania has been amended from twelve miles to ten.

Mr. BASFORD: Mr. Chairman, can we not save Mr. Stevens the trouble of reading the full table? Can it not be taken as having been read?

The CHAIRMAN: Agreed.

Mr. HOWARD: The exception mentioned by Mr. Stevens with respect to Albania was that there was a subsequent decision which changed it from twelve miles to ten.

Mr. STEVENS: I mentioned it in passing because it was referred to on a previous page.

Mr. HOWARD: That is all you were referring to on the previous page?

Mr. STEVENS: That is right. There would be no other amendments beyond those which might have been mentioned previously.

Mr. HOWARD: Thank you.

Mr. STEVENS: The list follows:

Argentina .....	3	10
Brazil .....	3	12
Bulgaria .....	12	
Cambodia .....	5	12
China .....	12	
Colombia .....	6	12
Costa Rica .....		200
Faroe Islands .....		12
Dominican Republic .....	3	15
Ecuador .....	12	
El Salvador .....	200	200
Ethiopia .....	12	12
Finland .....	4	
Greece .....	6	
Guatemala .....	12	
Iceland .....		12
India .....	6	100
Indonesia .....	12	
Iran .....	12	
Israel .....	6	6
Italy .....	6	6
Korea .....		20-200



Lebanon .....		6
Libya .....	12	
Mexico .....	9	Continental Shelf
Morocco .....		12
Norway .....	6	12
Panama .....	12	Continental Shelf
Peru .....		200
Romania .....	12	
Saudi Arabia .....	12	
Spain .....	6	6
Sweden .....	4	
Thailand .....	6	12
Tunisia .....	3	To depth of 50 metres
U.S.S.R. ....	12	
United Arab Republic .....	12	
Uruguay .....	6	
Venezuela .....	12	
Yugoslavia .....	6	10

The foregoing list, except for Morocco, Norway and China is taken from document A/Conf.19/4—Synoptical table concerning the breadth and juridical status of the territorial sea and adjacent zones—Feb. 8, 1960, prepared by the secretariat at the first United Nations Conference on the law of the sea.

From the foregoing it appears that as the years go by there will be more and more support for a 12 mile territorial sea, not only by nations like Canada, but also by Great Britain and the United States of America. On March 18, 1964 Representative Downing introduced in the United States House of Representatives H. R. 10492 to extend "complete and exclusive national sovereignty over the waters within a line 12 geographical miles distant from the line of ordinary low water along that portion of the coast of the United States which is in direct contact with the open sea and the line marking the seaward limit of inland waters."

The ratification by Great Britain, the United States and the Soviet Union of the international convention on the continental shelf, brings the total of 22 nations which have signed a very important document. According to press reports this agreement provides exclusive control over certain marine animals, such as crabs, which move along the ocean floor, by the coastal state out to a depth of 650 feet. In many areas this exclusive control extends far beyond either a 3 mile or a 12 mile limit. Other resources covered by the convention are natural gas and oil reserves beneath the ocean floor.

Obviously, the trend is toward greater exclusive control and exploitation by coastal states over offshore resources. When President Johnson approved the continental shelf agreement a Japanese periodical (Nipon Keizui Shimbun) said the action "has given rise to views within the Japanese government that Japan should restudy her present policy of rigidly adhering to the principle of freedom of the high seas." It points out that "great changes are occurring in the international fisheries, with fishing countries generally trending towards adopting the 12-mile territorial sea limit."

The periodical adds that "Japan's rigid adherence to the principle of freedom of the high seas, in the face of these developments, could lead toward isolating her in the international fisheries. To prevent such an adverse situation . . . Japan should revise her basic policy on fishing on the high seas and should actively participate in international treaties, and thereby seek greater recognition of her vested fishing rights."

We are not pretending there has actually been a reversal of policy by the United States, Japan, and Great Britain to the extent that they will openly

agree with strong action by Canada to declare full sovereignty and exclusive use out to 12 miles. Nevertheless, just as in Canada and in other nations the demand for action has grown stronger over the past 18 years, in some of the pro- 3 mile nations there has been a growth of the realization that eventually the 12 mile rule must supersede the ancient limit. It would be a tragedy for Canada if we were to adopt legislation which enables the cabinet to bargain away our resources by continued recognition of antiquated concepts of "history rights" or "traditional" rights or of foreign imposed "treaty" rights.

Unilateral Action on Extension of Territorial Waters and/or Multilateral Agreements and/or a Series of Bilateral Agreements:

We find it extremely difficult to understand the repeated reference to "unilateral" action by the responsible ministers of the government in view of their other statements indicating all definite action will be deferred pending negotiation and agreement with all nations claiming fishing rights off our shores. In this respect we agree with Mr. MacLean that "there is a confusion in terms" and the "average individual man on the street" cannot visualize the policy of the present government as acting "unilaterally".

The confusion, we submit, arises from an overwhelming desire on the part of the government to avoid the very obvious conflict between unilateral extension of exclusive fishing rights and the old concepts of continued right of exploitation by other nations. Instead of unilaterally declaring our baseline, declaring our extension of territorial waters and/or exclusive fishing zones as a primary step the government is engaged in a whole series of negotiations involving the claims of other nations.

In our view this approach is the very opposite of "unilateral" action by Canada. We believe it does not strengthen our position one iota. Every nation with which we are dealing must recognize the very obvious weakness in the government's present stance. No doubt this is the major reason why the process of negotiation has dragged along past the deadline of mid-May, 1964, which was indicated by the Prime Minister on June 4, 1963. It also explains why, instead of first establishing a baseline and then moving 12 miles seaward to enforce our rights, the ministers now indicate we shall first have a zig-zag 12 mile zone following all the sinuosities of our coast. It explains why the government is contemplating special regulations permitting continued fishing inside the 12 mile zone, with all its zig-zags, to the fleets of other nations. It explains the complete absence of any date when the so-called "unilateral" declaration of our sovereignty will be enforced. It explains why parliament is asked to approve, sight unseen, an extremely hazy outline of future action by the cabinet in the form of Bill S-17.

The editor of a business magazine on the west coast *Western Fisheries* in an editorial said: "Our new 12 mile limit, whenever it comes into force could become known as the fishnet curtain." He expresses the rather naive opinion that "It's going to catch the big ones, but it will let the little ones through". In this respect he expresses the hope that Japanese and Russians will be excluded even though it will not "disturb the American fishermen". Even so he describes it as "disturbing news, smelling of traditional Canadian compromise . . ."

In our view, unilateral action by Canada should begin with approval by parliament of a definite headland to headland baseline drawn to enclose bodies of water such as Hecate straits, Dixon entrance, the bay of Fundy, the gulf of St. Lawrence, strait of Belle Isle, Hudson's bay and so on. Parliament should set the date when this baseline becomes effective. At the same time parliament should fix the full twelve miles of territorial sea outside the baseline as sovereign territory of Canada. The date for this extension of territorial waters becoming effective should also be decided by parliament.



These decisions by the supreme governing body of our nation would constitute unilateral actions by our nation. All other nations, regardless of whether or not they consider they have claims for continued fishing, would clearly realize they were indeed facing a nation determined to take unilateral action. It would be up to each of them to seek understandings for temporary continuation of fishing in the waters from which they would otherwise be excluded after the dates set by parliament. The responsible ministers would be able to discuss these claims and, if considered desirable, to agree to any adjustment period, and then bring the necessary proposals back to parliament for ratification.

The Secretary of State for External Affairs has told the committee that "one of the inherent qualities of the sovereign power is that you can do anything; that would include making an arrangement with regard to another country in waters which we regard as our territory." Earlier he stated: "In the case of the territorial sea there is no limit on the jurisdiction of the nation, on Canada. Its sovereign rights are complete, subject only to those agreements, formal or informal, that applied to other states for one reason or another."

Hon. Mr. Martin added that "our concept of sovereign rights, this applies to bodies which we would regard as internal waters even though they may not be so regarded by other countries." He also said: "Sovereignty will apply to the twelve mile fishing zone only insofar as the fishing is concerned."

These statements, in our view, provide sufficient evidence that a unilateral decision by parliament would establish our complete sovereignty provided the baselines and outer line or lines were clearly drawn and the dates for their enforcement also stated. We could negotiate any special arrangements or agreements, formal or informal, with other nations. But all such agreements would require approval by parliament.

May we point out that such special arrangements need not apply solely to phasing out of fishing operations by foreign fleets. Nor would it be confined to renegotiation of treaties which now permit foreign encroachment on fishing areas inside our sovereign three mile territorial sea. It would be quite possible, by such further acts of parliament as may be considered advisable, to permit innocent passage of marine traffic or fishing vessels or aircraft. Our agreements now permit American vessels of all descriptions to use the inside passage along Canada's west coast from the 49th parallel to the Alaskan border. American aircraft fly over Canadian sovereign territory at all hours of the day and night enroute to and from Alaska. Countless other examples could be given to prove that unilateral extension of our sovereign rights does not and need not prevent reasonable arrangements or agreements with other nations, provided such agreements are not contrary to the Canadian interest.

Similarly, any special problems arising from direct conflict, geographically, between our Canadian concept of territorial waters and the concept of a neighbouring state where the boundaries of their territorial waters adjoin ours, could be resolved by agreement. Where no agreement appeared possible, over immediately adjacent waters the dispute could be resolved by arbitration.

By proceeding in this fashion, parliament, and the Canadian people, would have the right to decide, in a democratic way, the vital questions concerning our sovereignty over internal waters, territorial waters, and if desirable, contiguous fishing zones. All agreements, treaties, or other special arrangement would be subject to democratic approval by parliament. The bargaining position of the Canadian negotiating teams would be strengthened by their knowledge, as well as the knowledge of the other nations, that any infringement on our sovereignty, or any delay in full enforcement of our sovereignty, or other modification must meet approval in parliament.

The present course was embarked upon without even consulting parliament. The assurances to the President of the United States regarding American claims were given before parliament convened. The next step was to undertake a length series of secret negotiations, without obtaining parliamentary approval of the basic position. Today parliament is being asked to sign a blank cheque which grants dangerously wide powers to the negotiators and the cabinet.

We cannot see how Canadian resources and Canadian rights are better protected endorsement of the procedure followed by the cabinet. We believe this committee should strongly recommend to parliament that Bill S-17 be amended to spell out, in definite terms the exact extent of our territorial waters and the date upon which our sovereignty will be enforced. Specific recommendations should also be made for renegotiation of treaties with France and the United States in order to terminate the special fishing privileges contained therein. Recommendation should include general termination dates regarding other fishing by nations claiming "historic" or "traditional" fishing rights.

Positive action of this kind would be incomparably more valuable to Canadian fishermen than ratification of Bill S-17 in its present form.

One of the contentions made in favour of adopting Bill S-17 in its present form is that it "will greatly assist" the government in its negotiations with other nations. We must question this in the light of past performance.

The present government, by a Cabinet decision, on May 8, 1963, ratified changes in the annex to the international convention for the high seas fisheries of the north Pacific ocean. One of these changes permitted Japanese exploitation of halibut in the eastern Bering Sea. This secret decision was made, despite strong protests by Canadian fishermen, only eight days prior to the opening of parliament. Thus, the newly elected representatives of the people of Canada were given no opportunity to debate or decide upon the alteration in the treaty.

There were two major claims made to justify this action. Firstly, that eastern Bering Sea halibut stocks were not being fully exploited, therefore the abstention provisions of the treaty were no longer applicable. Secondly, that failure to amend the annex could lead to abrogation of the principle of abstention and the entire treaty by Japan.

Our reply, on behalf of the fishermen, was that the stocks were already exploited to the full, and further exploitation by Japan would lead to rapid depletion. Secondly, that Japan would move for abrogation of the abstention principle more rapidly if we whetted her appetite by this form of appeasement.

Our second contention proved absolutely correct, when only a bare month later, on June 6th, 1963, Japan proposed officially to scrap the abstention principle, demanding more freedom to exploit halibut, salmon, herring and other species in the eastern north Pacific ocean. Her demands were couched in language which scarcely concealed her threat of withdrawal from the treaty altogether if she did not gain approval of her demands. Our other contention proved correct, when, in November of 1963, the leading Canadian and United States scientists, including those employed by the International Pacific Halibut Commission admitted there had been a sharp decline in the Eastern Bering Sea halibut stocks.

The combined Canadian and United States fleets, prior to the entry of Japan in the Eastern Bering Sea, had taken around 6,000,000 lbs. of halibut per season. When Japan entered, a quota was set of 11,000,000 lbs. in the Bering Sea area where most of the Canadian and United States fishing had been conducted. Other portions of the Eastern Bering Sea were not restricted by quotas whereas the use of trawl gear was prohibited.



In the November meetings of the Tri-Partite Commission, the United States proposed a quota of 5,000,00 lbs., and Canada proposed 5,500,000 lbs. or exactly half of the 1963 quota, for the 1964 season. Japan voiced strong objections and the quota was eventually set at 7,700,000 lbs.

Mr. BASFORD: Before raising a point of order, Mr. Chairman, in respect of the evidence of this witness before the committee, I should like to state that this detailed consideration of the NorPac treaty is not before the committee. While I am not suggesting Mr. Stevens be restricted in presenting this brief to the committee I am giving notice now that I am going to object during questioning when this subject is being discussed because it is beyond the terms of reference to this committee at this time.

The CHAIRMAN: Thank you, Mr. Basford.

Mr. HOWARD: I should like to indicate at this time I disagree now as I did before with what Mr. Basford contends. While the North Pacific treaty is not before us as a document or entity in itself, what we are attempting to do is consider the effect on our fisheries of this particular bill before us and we are entitled to ask questions within a fairly wide range, especially in respect of fish which migrate beyond the 12 miles in order to ascertain what effect if any this bill might have. I am indicating at this time, as Mr. Basford has done, that I disagree with the caveat he has now entered and that I intend to argue the point later if necessary.

The CHAIRMAN: Thank you.

Perhaps I should say at this time that whereas I believe Mr. Stevens should have a complete opportunity to present his brief, questions asked will have to remain within consideration of the terms of reference which have been presented to this committee.

Will you continue Mr. Stevens?

Mr. STEVENS: The results, in 1964, since the season opened in March, have been disastrous for the Canadian and United States halibut fleet. So much of a decline has occurred that most Canadian and United States halibut boats came back from the Bering Sea deeply in debt for their ice, bait and supplies. None have returned for a second trip. The International Halibut Commission called a special meeting in Seattle on June 4th. We quote below from their official statement:

The International Pacific Halibut Commission, which is responsible for the regulation of the halibut fishery of the Northern Pacific Ocean and Bering Sea on behalf of the United States and Canada, has just concluded a special meeting at its headquarters at the University of Washington, Mr. Harold E. Crowther of Washington, D.C., Chairman, presiding.

The commission reviewed the present condition of the stocks in Bering Sea and other areas with its staff and discussed the problems with representatives of the fishermen, vessel owners and dealers from Washington, British Columbia and Alaska.

After reviewing the situation in Bering Sea the commission decided to convey to the governments of Canada and United States its deep concern regarding the condition of the fishery in Bering Sea and its conclusion that unless there is marked improvement in the halibut stocks it will be necessary to recommend closure of the catch-limit area to halibut fishing in 1965.

The commission intends to keep the fishery in this area under careful review during the remainder of the 1964 season, and if conditions continue to deteriorate, more immediate action may be required.

It was also decided that in view of the conditions prevailing on other sections of the Pacific Coast, particularly in Area 2, close surveillance of the fishery will be maintained in the event further restrictions in those areas are required.

When questioned on this Mr. Robichaud told this committee the "relaxation in 1963 of the operations of the Japanese fishermen in the Eastern Bering Sea cannot be used as a justification for the small catch of halibut this year." He indicated the decline "could result from large halibut fishing operations by both countries, Japan and the Soviet Union, in some other areas because . . . halibut do migrate, and they migrate great distances."

Surely, we cannot be expected to believe that entry of Japanese halibut fleets into the Eastern Bering Sea had no effect. The facts are that there was no scientific base for the false claim that Eastern Bering Sea halibut stocks were not being fully exploited. The secret cabinet decision constituted a betrayal of the Canadian interests on grounds of expediency which have since been proven inexpedient as well as unscientific. The admission that halibut "migrate great distances" and are subject to high seas fishing by both "Japan and the Soviet Union" should indicate the urgent need for an all-inclusive North Pacific Treaty. We have contended for several years, with the present minister, as well as his predecessor, that such a treaty was an absolute necessity. On May 1st last year we presented a lengthy outline of all the reasons why such a treaty is needed and why Canada should take the lead in diplomatic talks aimed at achieving it. Instead of doing so the minister chose to defend inaction by claiming the fourth nation was not interested in the stocks of fish covered by the treaty. His recognition of migrations of halibut and their exploitation by all four nations defeats that argument.

Every effort by Canadian fishermen to gain an all-inclusive treaty which would not only protect halibut stocks, but also put an end to high seas salmon rustling by Japan has been so far rejected by the Canadian government. In order to prevent full debate on this issue in parliament, the negotiations with Japan and the United States of America have been treated as top secret. No outline of basic issues has been related to parliament. Repeated requests for an opportunity to place our full views before this standing committee on this important subject have been put aside on the strength of the argument that only when negotiations are completed will there be a hearing.

We consider the present course to be suicidal for Canadian fishing interests. Japan is expanding her fishing operations over wider areas using the argument that the Soviet fleets are not restricted therefore Japanese fleets should have equal freedom. She has already succeeded in convincing Canadian negotiators that the "abstention principle" be deleted from the new treaty. Not only Eastern Bering Sea halibut, but also West Coast Queen Charlotte herring have been made available to Japanese fleets. There are indications she will demand rights to land halibut caught "incidentally" by her trawlers in the Gulf of Alaska. She has already depleted Asian salmon stocks and will press more strongly for a larger share of North American salmon.

Japan opposes an all-inclusive treaty because she fears being out-voted three to one in respect of high seas salmon fishing. Japan produces less than 1 percent of all Pacific salmon in her streams, but harvests more salmon than any other Pacific nation. Instead of pressing for a treaty which will put Japan in her rightful place of harvesting in accordance with the strength of her spawning grounds, the Canadian cabinet proceeds with secret negotiation of another tri-partite treaty which will perpetuate this form of high seas piracy by Japan.



We would welcome an opportunity to explain our views on this more thoroughly before this committee. We are prepared to table further documentation supporting the statements we have made.

Our main contention here is that Canadian fishermen are not satisfied with the government's insistence on secrecy in negotiation nor are we convinced the cabinet has used or will in future use wide powers in our best interests. Certainly the give away on halibut resources has been of no value to Canadian halibut fishermen. Likewise, we believe Canada is being led up a blind alley in current negotiations for a revised North Pacific treaty with Japan and the United States of America. The granting of wide open authority to define our internal waters, our territorial sea, fishing zone and to perpetuate foreign fishing therein would, in our view, be a tragic mistake. Parliament should assert its full rights on all these matters of such vital importance to our fishing industry and to our Canadian economy.

#### The Extent of Protection of Pacific Salmon, Halibut and Herring Stocks and Groundfish Stocks Which May be Provided by a Twelve Mile Limit.

Evidence has already been given indicating that halibut migrate over broad areas. We shall only quote a brief extract from the 1962 annual report of the International Pacific Halibut Commission:

Halibut from the large tagging experiments in Bering sea in 1956 and 1959 continued to be recaptured in significant numbers throughout the grounds between Unimak pass and Cape Spencer off the southern coast of Alaska and to a lesser extent in area 2 off southeastern Alaska, British Columbia, Washington and Oregon. Among the recoveries in area 2 in 1961, one fish tagged on the edge in Bering sea in 1959 was recovered off Coos bay, Oregon; and another tagged west of the Pribilof islands in 1959 was recovered off Lapush, Washington. The distances traversed along the trend of the coast were 2,195 and 2,035 miles respectively. The only greater distance between the point of tagging and recapture was by a halibut tagged in 1930 off Unalaska island in Bering sea and recovered in 1936 off Cape Medocino, California, a distance of about 2,305 miles.

The Pacific halibut fishermen fully realize that a 12-mile limit cannot possibly provide full protection of North American halibut stocks. Our membership believe the 12 mile limit would provide only limited assistance, inasmuch as there would be wide areas, in which the big trawl fleets operated by Japan, the Soviet union and perhaps other nations, in future, could take the bulk of the catch. Drastic depletion cannot be prevented unless a new all-inclusive treaty is negotiated containing adequate provisions for halibut conservation on the high seas.

It may be of interest to note that according to official North Pacific Commission reports Japan took at least 90,712,676 lbs. rd. of halibut out of the Bering sea from 1958 to 1963 (Doc 662—app. 7-16). This report does not include additional catches of mature and immature halibut taken by Japanese meal factory ships operating in the Bearing sea. "The quantity of halibut taken by the Soviet fishing operations in the eastern Bering sea is not available to the subcommittee", the report states (662—app. 7-5). During the 1958-63 period the combined catch by Canadian and American halibut fishermen in the eastern Bering sea totalled 31,324,000 lbs. dressed.

The foregoing simply emphasizes the vital need for a four nation treaty. Salmon stocks cannot be fully protected by a 12 mile limit. The protection would be comprehensive only if all nations confined their salmon fishing operations to their own inshore waters.

As long ago as 1957, the American section of the North Pacific Commission presented scientific evidence proving "beyond a reasonable doubt" that

- (1) Salmon of American and Asian origin are intermingled over a wide area of the north Pacific.
- (2) That red salmon of American origin are found in substantial numbers as far to the west as 170° east longitude, full 15° west of the provisional line established under the North Pacific Treaty."

Since then tagging expeditions and other investigations have been conducted in an effort to unlock the mysteries of high seas salmon migrations. Volumes of evidence indicate the area of intermingling is wider than was originally suspected. It is known that individual salmon tagged in the Aleutian area, where Japanese Motherships operate, have returned to waters of Alaska, British Columbia and the Columbia river in the state of Washington. Similarly, proof of salmon migrating from Siberia well over into the Gulf of Alaska is now available. Senator Reid referred to this at some length in his speech on May 4, 1964 when he was dealing with Bill S-17.

We do not believe the entire story of salmon migrations on the high seas has yet been unfolded. For example, we have suffered considerable declines in chum salmon production in British Columbia, coincidental with the rapid rise of Japanese high seas chum catches. Yet, the scientists claim there is no evidence of large numbers of Canadian salmon migrating into the areas fished by Japanese vessels. The Pacific is a huge ocean, and salmon migrate distances exceeding 2,000 miles. Thus, few fishermen in British Columbia are prepared to accept the idea that no appreciable interception of Canadian salmon by Japanese nets has occurred.

Canadian, United States and Soviet salmon fishing operations are confined largely to coastal waters. We have done this in Canada by laws prohibiting high seas salmon net fishing and salmon longlining. United States laws are similar, except for the variation in the Alaskan surf-line related earlier. Canadian and United States fishermen do operate on the high seas with salmon trolling gear but these operations have not, as yet, intercepted major volumes of salmon, except for springs and cohoes where special regulations are now effective and more may be needed in the not too distant future.

The Soviets operate salmon traps close inshore and in the mouths of their own rivers and thus far have not mounted a high seas salmon fishery. They could do so quite easily, of course. At present they are not party to any international convention prohibiting such a course of action.

The 12 mile limit, properly designated and enforced, would therefore provide a wide measure of assurance that Canadians could harvest Canadian salmon, Americans could harvest American salmon and Russians could harvest Russian salmon except for the predations of the Japanese high seas mothership fleet. We can only repeat our urging that steps be taken, by seeking an all-inclusive treaty, to put an end to this menace to salmon conservation in the Pacific.

Herring stocks originating in spawning areas along our coastline do migrate seaward for considerable distances. Canadian fishermen have reported schools of herring, during spring, summer and early fall months, well outside the suggested 12 mile limit. Since we do not, ourselves, conduct high seas herring drift-net operations, and our seining is done relatively close to shore, there is no substantial evidence of the extent of offshore migration.

Tagging by Canadian scientists has indicated some intermingling and migration between coastal areas but again, the extent of offshore migration is not known.

We believe a 12 mile limit will offer more protection against foreign exploitation of Canadian herring resources than the old three mile limit. But the



protection would not be absolute unless it were coupled with an international convention prohibiting or, at least, restricting offshore herring fishing by drift nets. In this connection, we should add that Canadian fishermen greatly fear the opening up of offshore herring drift net fishing on our west coast because such nets could also catch and destroy immature salmon in the same area.

Our continental shelf area is not nearly as wide on our Pacific coast as it is in some areas on the Atlantic. Therefore, we believe a full twelve mile territorial sea measured outside a baseline would provide considerable protection for our sole, cod and other groundfish stocks. Foreign trawlers could operate outside a twelve mile line off Vancouver island. Therefore, we believe, in view of recent Soviet exploratory expeditions in the area and the likelihood of Japanese expeditions in the near future, that international agreements must be negotiated. The United States trawl fleet would still operate off our shores, outside the 12 mile limit if our representations are successful and there would have to be an all-inclusive convention to protect these resources against depletion.

Our major crab fisheries are located in Hecate Straits. We also have a limited crab fishery along the west coast of Vancouver island. The bulk of these stocks would gain protection by adoption of the 12 mile territorial sea.

Amendments to Bill No. S-17 and the Procedure and Policy Outlined Regarding Implementation of a 12 Mile Limit

We have outlined our objections to the present form of Bill No. S-17 and the reasons why we favour more positive action by parliament at this time. We, therefore, propose the following amendments be made.

Territorial Sea Section 3. (1) The territorial sea of Canada comprises those areas of the sea having, as their inner limits, the baselines described in Section 5 (4) and, as their outer limits, lines measured seaward and equidistant from such baselines so that each point of the outer limit line of the territorial sea is distant twelve nautical miles from the nearest point of the baseline.

(2) No change is suggested.

Fishing Zone Section 4. This section may be eliminated entirely if the territorial sea is set at 12 miles.

Geographical Co-ordinate of the Baseline

5. (4) 1. The baseline referred to in Section 3 shall begin, on the west coast of Canada, at the seaward end of the international boundary, Juan De Fuca straits, 48° 29' 40" N., 120° 43' 35" W., proceeding in a straight line to

I wonder whether I could leave out these figures and just mention the points, Mr. Chairman?

Some hon. MEMBERS: Agreed.

Mr. HOWARD: We do not have our compasses with us.

Mr. STEVENS: The figures follow:

Pachena point .....	48° 43' 11" N.	125° 06' 02" W.
thence to Starlight reef .....	48° 52' 48" N.	125° 29' 12" W.
thence to Amphitrite point .....	48° 55' 11" N.	125° 32' 26" W.
thence to Estevan point .....	49° 22' 36" N.	126° 32' 58" W.
thence to Solander island (Cape Cook)	50° 06' 37" N.	127° 56' 34" W.
thence to southwest extremity Triangle Island .....	50° 51' 16" N.	129° 05' 30" W.

thence to western Kerouard islet off cape		
St. James .....	51° 55' 20" N.	131° 00' 19" W.
thence to McLean Fraser point .....	52° 13' 10" N.	131° 25' 38" W.
thence to Chads point .....	52° 48' 00" N.	132° 14' 02" W.
thence to islet SW Buck point .....	53° 05' 09" N.	132° 34' 50" W.
thence to islet NW Hippa island .....	53° 32' 54" N.	133° 01' 09" W.
thence to Frederick island .....	53° 56' 18" N.	133° 12' 05" W.
thence to Carew Rock .....	54° 09' 46" N.	133° 07' 38" W.
thence to Thrumb islet, Langara island	54° 14' 45" N.	133° 05' 02" W.
thence to Point A, Cape Muzon .....	54° 39' 45" W.	132° 40' 57" W.

Sub-Section 2. The baseline for the east coast of Canada to be similarly defined. We have made it clear that the baseline should enclose the bay of Fundy, gulf of St. Lawrence and strait of Belle Isle as Canadian internal waters. We refrain from naming geographical co-ordinates, although we have a list at hand and would be pleased to name them if the committee considers it of interest.

We feel that perhaps the eastern maritime representatives could do much better in respect of these points.

(3) Where in his opinion a portion of the territorial sea of Canada would conflict with the territorial sea of a country other than Canada or would be unreasonably close to the coast of a country other than Canada, the governor in council may, by order in council, amend the baseline as defined in subsection (1) and (2) of this Section in order to avoid any conflict with the territorial sea of such other country or to provide a reasonable distance between the territorial sea of Canada and of such other country. Such amendments shall be subject to approval by parliament at the session, immediately following passage of such order in council.

*Issue of Charts*

6 (5) The Minister of Mines and Technical Surveys may cause charts to be issued delineating the territorial sea of Canada or of any positions thereof as may be delineated consistent with the nature and scale of the chart.

The foregoing amendments would obviously require several consequential amendments to the Aeronautics Act, the Canada Shipping Act and the Coastal Fisheries Protection Act in order that these Acts conform to the concept of a 12 mile territorial sea, with such modifications as may be deemed desirable in the interests of practical application.

We propose the amended Bill No. S-17 should be placed before parliament for approval without further delay. The date of its coming into force, as the law of Canada should be proclaimed by decision of parliament in the following manner:

- (1) That the internal waters and territorial sea of Canada shall be considered to be Canadian sovereign territory from the date of adoption by parliament.
- (2) That effective from January 1, 1965, the government of Canada shall no longer permit fishing operations by any vessels or nationals of any other country in Canadian territorial waters or internal waters, except as may be provided by a special decision of parliament.
- (3) That Canada inform all nations claiming "historic" or "traditional" fishing rights that all such rights shall be terminated as of January 1, 1965 unless, by mutual agreement, satisfactory to the parliament of Canada, a later date of termination of fishing in Canadian waters by vessels and nationals of such other nations is established.



- (4) That Canada inform France and the United States of Canada's intention of abrogating the treaties which presently permit American and French vessels and Nationals to fish in Canadian waters. Canada should inform these two nations that effective January 1, 1966 the "fishing rights" specified in the treaties shall no longer be recognized in Canadian waters and that French and United States vessels and nationals shall be excluded from Canadian waters unless, by mutual agreement, satisfactory to the parliament of Canada, a later date of termination of fishing in Canadian waters by vessels and nationals of these nations is established.

As indicated earlier in our memorandum we are opposed to any lengthy phase-out or adjustment period. We believe Canada is, at least, 10 years late in making the necessary decisions in respect of territorial waters. We cannot help but recall the declaration of intent made by a former Minister of Fisheries at our annual convention in March 1956. In the intervening years many nations have acted decisively. Periods of adjustment are scarcely required in most instances in view of technological development in high seas fishing. Furthermore, just because nations have been enjoying a harvest in waters adjacent to our shores it is not automatic they must continue such exploitation any longer. Our Canadian fishermen who have suffered loss of potential income should receive prime consideration in the early termination of foreign exploitation of these vital resources.

In advocating abrogation of the treaties by a fixed date, we should mention that on April 26, 1963 the British government served notice of its intention to withdraw from the following international fishery agreements:

- (1) The North sea fisheries convention of 1882 (withdrawal effective May 15, 1964).
- (2) The Fisheries Regulations of 1843, made under the Anglo-French convention of 1839 (withdrawal effective June 24, 1964).

Surely, if Britain can withdraw from ancient treaties, fixing deadlines in advance of concluding any new agreements, Canada can follow suit. The original treaties which we now propose be abrogated by Canada in respect of fisheries, were negotiated, not by Canada as a sovereign power, but by Great Britain. We see no furthering of the Canadian interest in continuing to recognize terms of treaties or amendments thereto, which were imposed upon us prior to confederation. The terms of these treaties are not in accord with modern concepts of fair play. They are even less in accord with the modern world of mechanized fishing, conservation practice or the trend towards exclusive fishing rights in expanded territorial waters. We should not hesitate to terminate them and thereby declare our full rights as a sovereign nation.

We believe there is ample precedent in international law of the sea to permit all of the actions we have proposed. We are unaware of any international law which would be broken if Canada follows the course we have indicated.

In January 1962, Mr. Frank Howard moved second reading of a private bill designed to amend the Coastal Fisheries Protection Act to establish a 12 mile limit. Had the bill been passed it would have become effective on July 1, 1964. In re-reading the text of the debate in *Hansard*, we feel two quotations are worth noting:

- (1) Mr. Howard said: "In my opinion we should not sacrifice the interests of our fishermen any longer. We should not allow the attitude of the United States in this regard to influence us to the extent that we do nothing about this most important question." (P. 379)
- (2) Hon. J. W. Pickersgill said: "I should like to congratulate the hon. member for Skeena (Mr. Howard) both on the bill and on the very

moderate and reasonable presentation he made of it. In saying that I am speaking for my party and I assert that we support the bill without reservations." (P. 381)

Mr. HOWARD: Hear, hear.

Mr. STEVENS: Mr. Pickersgill further stated: "I am not very impressed by the dangers which it is suggested might arise from an attempt to enforce this. After all, if Iceland and Norway have been able to do this by unilateral action it is hard to persuade me that the Canadian people, if they had a resolute government which could make up its mind about anything, would have any difficulty in doing the same." (P. 384)

Mr. HOWARD: Hear, hear.

Mr. STEVENS: As we have clearly stated throughout our submission, we feel the fishermen of Canada have a right to expect positive, determined and courageous action by parliament. We do not consider our resources or our members to be expendable. The day of action is at hand, and we sincerely urge this committee to make strong recommendations for the amendments to Bill No. S-17 and the policy of the government which we have explained and proposed.

In conclusion, we must state our strong opposition to the adoption of Bill No. S-17 in its present form. We have been falsely accused of just wanting to "delay" or "kill the bill" in a manner which suggests we are trying to hold up progress. In one sense such remarks are hardly worthy of an answer in the light of our 18 years of advocating positive and decisive action by successive governments.

We oppose Bill No. S-17 because it is not definite, it does not spell out the extent of our internal waters nor define our territorial waters nor our sovereignty in respect of fishing rights. No definite dates for decisive action are even mentioned. There is no stated intention regarding termination of "historic", "traditional" or "treaty" fishing rights by nationals and vessels of other nations. Far too much authority is granted to the cabinet by Bill No. S-17, enabling the cabinet to compromise Canadian interests. Parliament, as our supreme governing body, is the authority which should decide all matters regarding our territorial boundaries at sea, our fishing rights and any extension of time granted other nations in the termination of fishing in Canadian waters.

We have no desire to hold up progress but we would call for the defeat of Bill No. S-17 if it is not amended in a positive way to strengthen Canada's position and to speed the day when Canada's fishermen will enjoy exclusive fishing rights for a full 12 miles outside a clearly defined baseline. We have appeared before this committee in the sincere hope that the views of the fishermen, whose livelihood is at stake, may be adequately considered. We sincerely hope the necessary amendments will be proposed by this committee.

As indicated earlier, much greater problems confront us. We would, therefore, urge that an early date be proposed by this committee when we can return to deal fully with the need for a new all-inclusive North Pacific Fisheries Treaty. We would also appreciate an opportunity to express our views on the need for an expanded program of rehabilitation of British Columbia salmon resources, development of a Canadian high seas fishery, license limitation in the British Columbia industry and other vital questions of deep concern to our members.

All of which is respectfully submitted.

UNITED FISHERMEN & ALLIED WORKERS' UNION  
Homer Stevens, Secretary-Treasurer.



The attachments, Mr. Chairman, are simply for information as indicated in the brief.

The CHAIRMAN: Thank you, Mr. Stevens.

Mr. Stevens will now answer questions, but before we reach that point I should like to make one observation.

The terms of reference to this committee are simply to deal with Bill No. S-17, having regard to the 12 mile limit, and I would respectfully ask members of this committee to confine their questions to the bill.

Mr. HOWARD: While Mr. Stevens was reading the brief I made notes of things I wanted to ask, but as he proceeded many of those questions were covered and I do not wish to go into detail at the moment.

I should like to pose the question to Mr. Stevens I posed earlier to Mr. Robichaud which was postponed until we might ask it of the officials of the department. I should like to ask Mr. Stevens, if I may whether he will make some comment regarding his or his organizations point of view in respect of a paragraph appearing in a publication headed "Western Fisheries of May, 1964". At page 68 of that publication under the heading "Japan, Russia Agree on Off-shore Salmon Quota," appears the following statement:

The Japanese and Russians have agreed on a salmon catch quota of 110,000 metric tons for Japanese fleets in the north Pacific. It is the lowest catch quota established in eight years, and will be divided equally between the two areas designated under the Japan-Russia fisheries treaty. One area takes in the waters close to Japan and Kamchatka, and the other area is far offshore in mid Bering Sea.

Under the new agreement, Japan will voluntarily regulate the catch of red salmon in area A, closest to Kamchatka, restricting the total catch to 7,750,000 fish. Of this amount, Japan will limit the catch in the area west of 165 degrees E. longitude and north of 48 degrees N. latitude to 2,500,000 fish.

I realize there are statistics, meridians and parallels of latitude involved there but I wonder whether you could express your interpretation of this article in respect of its effect on the stocks of salmon in the high seas and the subsequent effect upon salmon which originates in Canadian waters?

Mr. BASFORD: Mr. Chairman, I should first like to know how that question is related to this bill.

The CHAIRMAN: I was going to ask Mr. Howard to relate his question to the 12 mile limit.

Mr. HOWARD: I relate it in precisely the same way I related it to Mr. Robichaud when he told me he could not give an answer and suggested that I pose the question to his departmental officials. No objection was taken at that time to the particular question.

If you would like me to relate the question specifically I will do so in this way. The Minister of Fisheries and Mr. Stevens have made reference to the intermingling of salmon stocks in the mid Pacific. They have also made reference to the fact that Japanese and Soviet union fishing fleets fish in the high seas and that our salmon fisheries off Alaska and United States salmon fisheries are all intermingled in as much as the salmon is a migratory fish, and in as much as the minister indicated that the degree of protection to our salmon fisheries would be minor if we do not have international agreements to further conservation in this way I believe the question is related. I am attempting to discover what effect Japanese high seas fisheries have upon our salmon stocks out in the mid Pacific, and whether those fisheries interfere with or are likely to interfere with the salmon stocks borne in Canadian waters. In this way the question is connected.

Mr. BASFORD: I suggest the question is out of order by reason of the fact it deals with high seas fishing and by reason of section 2(2) of the Nor Pac agreement, which excludes Nor Pac considerations relating to fishing of the United States, Canada and Japan in the high seas and the application of bills dealing with territorial waters. I suggest the question is also out of order by reason of the brief we have heard this morning and I refer particularly to the pages which include a great deal of material in respect of high seas fishing to which I referred earlier. At page 40 of the brief we find the following agreement:

The admission that halibut 'migrate great distances' and are subject to high seas fishing by both 'Japan and the Soviet Union' should indicate the urgent need for an all-inclusive north Pacific treaty.

I am disputing that statement. I might well agree with the statement but it certainly indicates that it is related to a consideration of the north Pacific high seas treaty and not to a 12 mile limit.

Further on page 43 we find the following sentence:

The foregoing simply emphasizes the vital need for a four nation treaty.

Again I might well agree with the statement, but that is not a subject matter now before this committee.

Mr. HOWARD: Mr. Chairman, I wonder whether I may be allowed to just point out one simple thing in respect of the bill before us to Mr. Basford. I am sure concern, as well as mine, is to protect our Canadian fisherman and fisheries and is not, as Mr. Basford has tried to do, to protect the Minister of Fisheries. When I asked this question before it was accepted by the minister and he said he could not give us the information and suggested that if I wait until later I could pose the question to Dr. Needler or Mr. Ozere, or other members of the fisheries department. I intend to do that when those gentlemen appear as witnesses. I am posing the same question now to the witness that I posed earlier at which time it was accepted without any reservation at all, and Mr. Basford was sitting at almost the same seat he is now sitting at.

Mr. BASFORD: Of course I refute the implication of motive which Mr. Howard makes, that I was protecting the minister. I am sure the minister is quite able to protect himself and does not need any help even if I were trying to give it to him.

I am in attendance here as a member of parliament from the west coast of Canada and, I think in the same way as Mr. Howard, am sincerely trying to do my job in putting this bill before parliament so Canada's west coast fishing stocks can be protected.

Mr. MATHER: Mr. Chairman, without imputing motives to any member of the committee, I should like to suggest that it is obvious that when discussing Bill No. S-17 and a brief relating to the application of that bill we must also take into consideration the practices which govern or influence that bill and any amendments which we may recommend therefore I think Mr. Howard's question dealing with high seas fishing and its application to this bill is in order.

Mr. BARNETT: Mr. Chairman, as far as I am concerned I do not see much advantage in pursuing a lengthy procedural argument. Very often questions of procedure take more time than would be required to deal with the original question.

I agree with you that any extended study in detail of the Nor Pac Treaty, or any other high seas treaty, would not be pertinent to our terms of reference, but certainly I feel that within limits we should have an opportunity of asking questions, the answer to which will help make clear the interrelation of the application of this bill to the various fisheries, including questions in respect



of matters that involve high seas fishing. I think that Mr. Howard's question is not designed to do anything more than establish a sphere of inter-related facts and I do not think we should waste a lot of time discussing a number of finer points of order.

Mr. CHATTERTON: Mr. Chairman, I think there is a relationship between the question and the bill before us. For example, if Japan is limited in its fisheries by the agreement to which Mr. Howard referred, then Japan may be induced to come into the Queen Charlotte sound to fish for salmon. If we declare a 12 mile limit making those waters officially our own Japan would not be able to do that. I think there is a relationship here.

Mr. CASHIN: I should just like to say in respect of the comment Mr. Howard made regarding the fact he put his question to Mr. Robichaud and indicated that Mr. Robichaud made some statement of referral. I do not think that has anything really to do with whether or not the question is in order or not. Surely it is not for Mr. Robichaud, a witness before this committee, to make such a decision. I do not really think that fact substantiates one way or another whether or not the question now being asked of the present witness is in order.

Mr. HOWARD: The only point I wanted to make Mr. Chairman was that I wonder why Mr. Basford was so assiduous in raising the point at this time when he did not bother to deal with it earlier.

Mr. CASHIN: He is keener today.

Mr. HOWARD: He is keener today.

The CHAIRMAN: In so far as the question is confined to the effects on conservation in the 12 mile limit will allow it, but I will not allow a discussion in respect of the Nor Pac treaty because we simply cannot carry on a discussion in that regard.

Mr. HOWARD: In view of the fact that salmon migrate thousands of miles out into the mid Pacific I am trying to establish the relationship of any nations fisheries to the salmon of our waters.

Do you wish me to repeat the question?

Mr. STEVENS: I did make some notes in respect of your question before you dealt with the other items raised and I think I understand it sufficiently well to give an answer. Are you primarily trying to ascertain the effect the new agreement recently announced between Japan and the Soviet union might have, and what bearing it might have in respect of the bill we are now considering, and the 12 mile limit, on the conservation of our salmon resources?

Mr. HOWARD: Yes.

Mr. STEVENS: The first immediate effect which was noted by the United States and Canadian fisheries people is that the terms of the new agreement provide that one third of the estimated Japanese sockeye or red salmon catch will be taken west of 165 degrees and two thirds will have to be taken east of that, meaning that two thirds of the catch will be taken in an area more closely adjacent to the North American continent. In other words, two thirds of the catch, it is estimated, will be taken by the Japanese of salmon originating in North American streams. United States people in Alaska feel that the bulk of that will possibly come from the Bristol bay run. We are concerned that a large portion of that will come directly out of Canadian salmon runs.

General pressure in this regard is directed to moving the Japanese fleet closer to the North American shores by the Soviet union in its negotiations with Japan. This will mean then that the second effect is similar to what we have already described, and that is that Japan will press even harder for more concessions and rights to fish salmon east of the present provisional line and

for removal of the extension principles that apply under the old treaty. Lastly it indicates, probably more clearly than ever that a 12 mile limit while in itself would give some of the kind of protection that was mentioned in the discussion, it would not allow fishing right in the Hecate straits and, if the lines were properly drawn would not permit depletion of our salmon resources by high seas salmon fishing operations. Of course, this is why we have suggested there must be very vital amendments made to a new north Pacific treaty.

Mr. HOWARD: Thank you.

Mr. BARNETT: I should like to ask one question related purely to the clarification of a statement appearing at page 26 of your brief in the paragraph at the middle of the page. Reference is there made to the catch by the United States trawlers and I am wondering whether the figures given in the last sentence, which indicate that United States trawlers landed something over 110 million pounds of fish as compared to 21 million pounds by Canadian trawlers, refer to the catch along the entire area of the west coast of the continent or whether they refer to catches by United States and Canadian trawlers off the coast of Washington, Oregon and California?

Mr. STEVENS: No. Mr. Chairman, the figures relate to United States catches off Washington, Oregon, California and British Columbia but do not include United States catches by trawl fishing off Alaska.

Mr. BARNETT: In other words the 21 million pounds is not to be taken as trawl of fish by Canadian fishermen off the United States waters?

Mr. STEVENS: I am sorry. I misunderstood your question. I thought you were referring to the catch of United States fish. If you are referring to the catch by Canadian trawlers of 21 million pounds, this is almost entirely taken off the British Columbia coast, according to the information we were able to get. I indicated earlier that 6,500,000 roughly were taken between Vancouver island and our mainland and the other approximately 14 million pounds was taken off the west coast of Vancouver island and in Hecate straits by Canadian trawlers.

Mr. BARNETT: As far as you know the figures indicate that the Canadian trawl catch south of the northern Washington boundary is negligible?

Mr. STEVENS: Yes. The experience of the Canadian trawl fleet is that it is difficult enough to compete with the United States fleets operating off our own coast without trying to proceed southward into areas where they already have fixed their control, from all points of view, economical and otherwise. So far we have not developed a trawl fleet that is capable of going into the Gulf of Alaska or Bering Sea in the way that the Japanese and Russians have done.

Mr. HOWARD: Keeping in mind the fishing area taken from the fisheries council brief on which, as the government has indicated, this bill is based, apart from the effect of United States fishermen fishing for bottom fish, sole and that sort of thing, within that proposed 12 mile area, to what extent will the proposal be protected of cod, sole, flounder and other bottom fish? Are those types of fish migratory? Do they range very far to sea or do they stay in certain areas?

Mr. STEVENS: Perhaps I could begin to answer your question by saying I am not quite sure that the fisheries council of Canada brief is being followed by the government in respect of allowing United States fishing rights forever. As I read their brief and I have read it over several times, it indicates there should be some negotiation in respect of those questions.

Leaving that point aside, we believe there would be a measure of protection in respect of ground fish stocks, but along the west coast of Vancouver



island through from about half way along the island, so to speak, moving in a southerly and easterly direction the continental shelf extends considerably beyond the 12 miles. This would make it possible for fishing fleets, particularly those such as Japanese and Russian, who have developed deeper water fishing by trawls than we normally use, to take fairly substantial quantities of sole, cod and other ground fish stocks. Of course we would still have the effect of the United States fishery on part of the shelf area. Off the west coast of the Queen Charlotte islands and the northern part of Vancouver island the shelf drops off fairly steeply so there would be more protection in that area.

In respect of that part of the question dealing with migration, I do not know whether this has ever been clearly indicated by a scientific investigation but the experience of the fishermen has been that there are in-shore off-shore types of migrations. Also some studies, for example that in respect of the petrale sole, which was studied very carefully by Canada and the United States, proved some fairly wide spread migration. There was indication of other migrations of sole in the Skidigate area, for example, and around Queen Charlotte islands so we cannot say this would provide absolute protection even if the boundary lines were marked off as they are indicated in the fisheries council of Canada brief, or as we have indicated in our submission. This would give a considerable amount of protection.

The CHAIRMAN: Are there any further questions?

If there are no further questions, after making one or two brief announcements and observations we will adjourn, if that meets the wish of the committee.

Our next meeting will be at ten a.m. on Monday, June 22.

As a result of a brief meeting of the steering committee this morning we have decided, if it meets with the approval of the committee, to continue with our questioning of officials of the departments concerned if we complete our business with the fisheries council people early in the day. My reason for making this suggestion is that I understand after Monday some of these officials have to be away from Ottawa for the balance of the week. The suggestion I pass along from the steering committee is that if the meeting dealing with the fisheries council of Canada people is concluded early in the morning we should continue questioning the officials of the Department of Fisheries and the Department of External Affairs.

Some hon. MEMBERS: Agreed.

The CHAIRMAN: I have received several letters in respect of Bill No. S-17 which, instead of reading, I propose to have mimeographed and distributed almost immediately to each member of this committee. Most of those letters I might say are in support of Mr. Stevens' brief. Is it agreeable to the members of this committee that I have these letters mimeographed and distributed?

Some hon. MEMBERS: Agreed.

Mr. STEVENS: Mr. Chairman, may I be permitted to ask a question before I leave as the witness? My question is in respect of a matter of procedure to be followed by some of the west coast organizations who have expressed some desire to present certain information to this committee.

The CHAIRMAN: My understanding is that all those organizations have been notified I would think at about the same time we received letters. Those organizations would have to present a request to this committee.

Mr. STEVENS: My question is simply, must those people appear by representation to this committee or what is the procedure in respect of sending in a written submission? Would such a submission be read to this committee or would the committee require that someone represent the organization? In what

fashion should such a report be placed on record? This is a question that I have been asked to put to the committee.

The CHAIRMAN: Offhand I would suggest that if written submissions were sent in, they would be mimeographed and distributed to each member of the committee. But I think the committee would have to give its authority. Certainly the steering committee would. I am told that they would have to send in copies for circulation.

Mr. BASFORD: I think it should be made clear to Mr. Stevens that any individual is free to send to the committee any material he wishes.

The CHAIRMAN: That is right.

Mr. STEVENS: I asked whether it would be in the official record of the committee proceedings. In the hearings which took place in 1952, when I appeared, there were other organizations which submitted representations such as the Prince Rupert Fishermen's Co-Operative and others, and their representations, even though they were not presented in person, were included in the official record of the committee proceedings following a decision of the committee.

Mr. BASFORD: It should be possible to append material to the proceedings of the committee, provided a decision was first taken by the committee.

The CHAIRMAN: That is right. It would have to be done following a decision of the committee in each case.

Mr. BASFORD: Might I ask Mr. Stevens, speaking as a member of the steering committee, the following question: We have written to all the organizations he suggested in his letter, together with some east coast organizations, but we have not yet heard from many of them. Some of them said no. Do you know of any other organizations? It would be helpful to us in organizing our meetings. Do you know of any other west coast organizations which might want to come?

Mr. STEVENS: I do not know of any which plan to make the trip down here, mainly because of the expense involved. We were told that the Native Brotherhood of British Columbia had it in mind to send in a written submission, and that they were in the process of preparing it. But the number of people they have at full time is strictly limited. I think they only have one full time person and one part time. Another co-operative said that it would be sending a submission, and the Prince Rupert Fishing and Vessel Owners' Association said that as soon as they could get a meeting of their directors, who are now actively engaged in fishing, they would have something to say. Our office in Prince Rupert said that there might be representations from the Prince Rupert Co-Operative Association, and perhaps from the Prince Rupert vessel owners. All these representations would be in writing, because the organizations do not feel they can send people to Ottawa at this time.

The CHAIRMAN: Canoe Pass has written me to say that they endorse the stand taken by Mr. Stevens.

Mr. HOWARD: The most beautiful part of the country at this time of year is right now on the west coast, and I am sure you would find very few members of the committee who would be reluctant to go out there, if there is someone there who cannot come here.

Mr. CASHIN: Would you not also refer to Newfoundland?

Mr. HOWARD: I would be glad to go to the west coast and to Newfoundland as well.

The CHAIRMAN: Your suggestion will be duly noted, Mr. Howard.

Mr. BASFORD: It was noted by the steering committee when Mr. Howard was not present.



The CHAIRMAN: That is right. Mr. Basford made the same suggestion. I notice there is a patriotic fervor on the part of members from British Columbia when they point out the advantages of having a meeting out there. However the Chair must be impartial, looking neither to the east nor to the west at the moment, but proceeding solely following instructions from this committee and the guidance of the steering committee.

Mr. BARNETT: If there should be a specific group or organization who have been notified that the committee would be interested, if they should make a submission, I wonder whether we could come to a decision, as a committee, in view of the discussion that has taken place? I wonder if the committee would be willing to receive their written submissions and deal with them. I am referring now to those organizations who have already been notified.

The CHAIRMAN: I am told that if copies are sent to the secretary, they would be distributed to the members in any event.

Mr. BARNETT: Your suggestion is that we could then decide, in respect of each submission that we might receive, whether it should be appended.

The CHAIRMAN: Yes, that is right. The committee could decide on each one; and if they should send in 50 copies, they would be distributed to each member. So long as the copies come in, they would be distributed and then the committee could decide whether or not the submission should become part of the official record.

Mr. BARNETT: Suppose we received a 1,000 page brief then we might have some concern about it.

The CHAIRMAN: Yes, indeed.

Mr. BASFORD: I move we adjourn.

The CHAIRMAN: The meeting is now adjourned.



















HOUSE OF COMMONS

Second Session—Twenty-sixth Parliament

1964

GOVT PUBNS

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STANDING COMMITTEE ON  
**MARINE AND FISHERIES**

*Chairman:* Mr. C. R. GRANGER

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MINUTES OF PROCEEDINGS AND EVIDENCE

No. 4

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MONDAY, JUNE 22, 1964

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Respecting

BILL S-17. AN ACT RESPECTING THE TERRITORIAL  
SEA AND FISHING ZONES OF CANADA

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WITNESSES:

From the *Fisheries Council of Canada*: Mr. Donovan F. Miller, Mr. Guy Bernier and Mr. C. Gordon O'Brien.

Also: The Honourable H. Robichaud, Minister of Fisheries; and from the *Department of Fisheries*: Dr. A. W. H. Needler and Mr. S. V. Ozere; from the *Department of External Affairs*: Mr. M. H. Wershof and Mr. A. E. Gotlieb; from the *Department of Justice*: Mr. J. D. Affleck; from the *Department of Transport*: Mr. R. R. Macgillivray.

ROGER DUHAMEL, F.R.S.C.  
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1964



## STANDING COMMITTEE ON MARINE AND FISHERIES

*Chairman:* Mr. C. R. Granger

*Vice-Chairman:* Mr. Alexandre Cyr

and Messrs.

Armstrong,	Crossman,	Mather
Barnett,	Crouse,	McLean ( <i>Charlotte</i> ),
Basford,	Danforth,	Mullally,
Bécharde,	Dionne,	Noble,
Bélanger,	Dubé	Patterson,
Bigg,	Godin,	Pugh,
Blouin,	Groos,	Rhéaume,
Cadieu ( <i>Meadow Lake</i> ),	Howard,	Stefanson,
Cashin,	Leduc,	Stewart,
Chatterton,	MacLean ( <i>Queens</i> ),	Tucker,
Coates,	Macquarrie,	Whelan—35.

(Quorum 10)

M. Roussin,  
*Clerk of the Committee.*

## MINUTES OF PROCEEDINGS

MONDAY, June 22, 1964.

(8)

The Standing Committee on Marine and Fisheries met this day at 10:14 o'clock a.m. The Chairman, Mr. C. R. Granger, presided.

*Members present:* Messrs. Basford, Bigg, Cashin, Chatterton, Crouse, Cyr, Danforth, Groos, Howard, MacLean (*Queens*), Noble, Stefanson, Stewart and Tucker—(15).

*In attendance:* From the Fisheries Council of Canada: Mr. Donovan F. Biller, President, Vancouver; Mr. Guy Bernier, Vice-President, Montreal; and Mr. C. Gordon O'Brien, Manager, Ottawa.

*Also in attendance:* The Honourable H. Robichaud, Minister of Fisheries; and from the *Department of Fisheries*: Dr. A. W. H. Needler, Deputy Minister; and Mr. S. V. Ozere, Assistant Deputy Minister; from the *Department of External Affairs*: Mr. M. H. Wershof, Legal Adviser, Assistant Under Secretary of State; and Mr. A. E. Gotlieb, Deputy Legal Adviser; from the *Department of Justice*: Mr. J. D. Affleck, Assistant Deputy Minister; from the *Department of Transport*: Mr. R. R. Macgillivray, Assistant Counsel.

The Chairman introduced the representatives of the Fisheries Council of Canada, and the Committee agreed to have read only the new part of the memorandum prepared by the Fisheries Council, with the understanding that the whole brief be considered as read today and be part of today's proceedings, including certain maps and lists. (*See Appendices "A", "B" and "C" of today's proceedings*).

Mr. Miller read the relevant part of the brief and was examined by the Committee.

The examination of the witness being concluded, the Committee agreed to question the other witnesses attending the meeting.

On the matter of hearing other witnesses, Mr. Howard mentioned that Mr. Barnett, absent this morning, would like to examine again the Honourable Secretary of State for External Affairs, Mr. Paul Martin. The question was referred to the Sub-committee on Agenda and Procedure with a view to setting a date.

There being no other witnesses, the Committee adjourned at 1:10 o'clock p.m. to the call of the Chair.

Marcel Roussin,  
*Clerk of the Committee.*





## EVIDENCE

MONDAY, June 22, 1964

The CHAIRMAN: Gentlemen, we have a quorum.

This morning we have with us the fisheries council of Canada represented by, and I will ask each of you to stand as I mention your names, the president, Mr. Donovan F. Miller of Vancouver, Mr. Guy Bernier of Montreal, a vice president of this council, and Mr. C. Gordon O'Brien the manager in Ottawa.

The fisheries council has a brief which has been sent out to each member of the committee and I will ask Mr. Miller to read it at the present time.

Mr. STEWART: On a point of order, Mr. Chairman, if this brief has been circulated to all members of the committee would it be fair to assume that members of the committee have read it, and would it not then be fair to suggest that it simply be printed as though it had been read? I have no objection to listening to the brief read except to suggest it is going to take up time unnecessarily. In other cases where we have allowed the reading of the briefs we have not had the printed briefs before us, and in those cases I felt the reading of those briefs was quite justifiable. In this case we have the brief prepared and have had an opportunity of going into it, and I think to read it now is gilding the lily a bit.

Mr. BASFORD: Mr. Chairman, I do not think it is safe to assume that the members have all read the brief.

I notice the brief contains two parts, namely a reproduction of the brief submitted earlier by the fisheries council and some new material. I suggest that Mr. Miller be asked to read only the new material.

The CHAIRMAN: I should like to have further advice in this regard because it has always been customary to have briefs read. There is no reason why we should not make our own rules.

Mr. MACLEAN (*Queens*): Mr. Chairman, I agree with Mr. Basford's suggestion, that Mr. Miller read the part of the brief that is new and only make whatever reference he desires to the appendices at the back including the previous brief.

Mr. HOWARD: I wonder whether I could ask Mr. Miller if he wants to read the brief?

Mr. DONOVAN F. MILLER (*President, Fisheries Council of Canada*): Mr. Chairman, as has been mentioned, I believe the centre section of our submission today has been circulated to all members of the House of Commons and particularly to all members of this committee at an earlier date and we have included it in our submission today to provide the complete story. However, we certainly would have no objection to not reading that portion and do not feel it necessary to read it again into the record today as long as we are assured that it will be included as part of our over-all submission.

The CHAIRMAN: Is that suggestion agreeable to the members of this committee?

Some hon. MEMBERS: Agreed.

The CHAIRMAN: May I suggest, and I think I reflect the wishes of all members of this committee at this time, that you read that portion of your brief which is new.



Mr. MILLER: All right.

The CHAIRMAN: That which is old will be included in the report.

Mr. MILLER: Thank you very much Mr. Chairman. With your permission I will remain seated.

The CHAIRMAN: Yes, do so by all means.

Mr. MILLER: Mr. Chairman and members of the standing committee on marine and fisheries of the House of Commons, we thank you for the invitation to appear here today.

My name is Donovan F. Miller of Vancouver and I am president of the fisheries council of Canada. With me is Mr. Guy Bernier of Montreal, a vice-president of this council. My private capacity is that of executive assistant to the president, The Canadian Fishing Company Limited, while Mr. Bernier is general manager of Quebec United Fishermen, the fishermen's co-operative serving the province of Quebec. And, of course, we have with us Mr. C. Gordon O'Brien, the manager of our council, from Ottawa. As most of you are aware, this council represents the commercial fishing industry at the national level and maintains offices at 77 Metcalfe street, Ottawa. It has 16 affiliated associations located from coast to coast. (See Appendix No. 3).

Bill No. S-17, an act respecting the territorial sea and fishing zones of Canada, is of tremendous importance to the fishing industry. It is encouraging to note the interest it has generated in the House of Commons, and in this committee. We appreciate this opportunity of placing our views before you. Our manager appeared before a committee of the Senate when this bill was under consideration there and we were gratified to note that it was passed by the Senate without amendment.

This question of Canada's national and territorial waters has been the subject of much discussion and study by the fisheries council of Canada over a period of many years.

Two years ago we made it our major project for that year and I had the privilege of being chairman of the council committee which produced a brief summarizing our views and recommendations on this subject. This brief was endorsed by all of the council's affiliated associations across Canada.

When Mr. O'Brien appeared before the committee of the Senate which dealt with this bill, some of the committee members commented that considerable mention had been made of the proposals put forth by the fisheries council of Canada but that they had not seen them. The council brief was, therefore, placed in the record of those proceedings.

In case a similar situation should exist here, we are including in this presentation the brief which this council submitted to the government of Canada some seventeen months ago. It was entitled "A Brief Concerning Canada's National and Territorial Waters Submitted to the Government of Canada by the Fisheries Council of Canada, January 28, 1963, Ottawa, Canada," and read as follows:

### Introduction

The fisheries council of Canada representing the commercial fishing industry of Canada,<sup>1</sup> has an interest in ensuring that the fisheries resources in the waters adjacent to our coastlines are conserved and developed in the interests of Canadian citizens, both at the present time and in the future. For this reason, the council wishes to present its views with regard to the jurisdiction over waters adjacent to Canada.

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<sup>1</sup> See Appendix No. 3.

The fisheries council of Canada recognizes that there are many international and national complications with regard to establishing the breadth of territorial seas and therefore, it is not intended that this submission should apply to any other aspect of national or international law except fisheries.

The rapid increase in world fishing effort and efficiency has focused attention on the fact that unless adequate safeguards are taken, the marine resources, that have played such a vital role in the development of the Canadian economy, will be harvested by foreign fishing fleets. It is our opinion that unless Canada takes immediate action to protect and conserve the marine fishery resources, they will be rapidly depleted by reason of the incursion of foreign fishing fleets.

Fishery resources harvested by Canadian fishermen in or out of Canadian territorial waters are also exploited by fishermen of other countries in the high seas adjacent to Canadian territorial waters. For several centuries the fishery stocks in the northwest Atlantic have been exploited by the fishermen of Europe as well as those of North America. Similarly, on the Pacific coast of Canada, the fishery resources on which the Canadian fishing industry depends are accessible to foreign fishermen beyond Canadian territorial waters. The same problem exists in the great lakes region where a common fishery resource is exploited by both the Canadian and United States fishermen.

To meet the problem of conservation of certain fishery resources, treaties have been negotiated with some participating countries. In addition to these bilateral and multilateral treaties between nations jointly interested in certain fishery resources, considerable progress has been made recently in international meetings to establish an all-embracing code of the law of the sea. Such a code would establish international rules for the conservation and management of high seas fisheries which are beyond the national territorial limits and as such are not within the jurisdiction of any nation, except to the extent that any state may exercise control over its own nationals and vessels.

To protect, conserve and develop the fisheries resources adjacent to Canadian shores, the fisheries council of Canada urges the government of Canada to take the following action:

- (1) Declare certain bodies of water as Canadian national waters, and adopt the straight base line principle, from which line the breadth of territorial seas and exclusive fishing zone would be measured.
- (2) Recognize the historic fishing rights of France and the United States of America in Canadian national waters as established by the Treaty of Utrecht and the convention of 1818.
- (3) Enter into negotiations with France and the United States seeking recognition of Canadian national waters and the base line enclosing these waters.
- (4) Make a unilateral declaration with regard to Canadian national waters and the straight base line, once an understanding is reached with France and the United States.
- (5) Enforce the Canadian maritime boundaries, thereby preventing all other foreign fishing fleets, save the aforesaid, from exploiting the marine resources in the declared national waters and the territorial seas.

Positive action by the government of Canada in implementing the above progressive steps is imperative and will permit planned programs of fisheries' management and conservation. Such programs will ensure a means of livelihood for Canadians engaged in the primary fishing operation and in the many processing and ancillary industries.



### National Waters

Canada must declare that certain bodies of water adjacent to her coasts are, for the purposes of fishing regulations and conservation, Canadian national waters in which no foreign fishing fleets may operate without the consent of the government of Canada.

Early records of the government of Canada as well as provincial documents make many references to the fact that bodies of water partially enclosed by the mainland are Canadian national waters.

Respecting Pacific coast waters, a report of the committee of the privy council, dated July 6, 1909, and approved by the governor-in-council, declared that the waters of Hecate strait shall, for the purpose of fishing regulations and conservation, be deemed part of the territorial waters of Canada and within the jurisdiction of the Federal Department of Fisheries. It is essential that this order-in-council be re-asserted and enlarged to include not only the waters of Hecate strait, but also Dixon entrance and Queen Charlotte sound. The fisheries council of Canada stresses the importance of the government of Canada declaring these waters to be Canadian national waters.

On the Atlantic coast the strait of Belle Isle, the gulf of St. Lawrence and the bay of Fundy should be declared and recognized as Canadian national waters in the same manner as Hudson's bay, which has been recognized internationally as Canadian national waters for at least thirty years and has been so declared by parliament (see Statutes of Canada, 1932, c.42, s.9(4)).

The claim to jurisdiction over these bodies of water on both the Atlantic and Pacific coast is justified by the extensive fishery carried out by Canadian fishermen for many decades.

### Straight Base Line

To protect the fishery resources in waters adjacent to Canada, the council advocates that the breadth of territorial seas be measured seaward from a straight base line. This base line would be drawn headland to headland following the practice of other maritime nations of the world and would be in accordance with the decision of the international court of justice in the case of the United Kingdom versus Norway, known as the Anglo-Norwegian fisheries case, decided in 1951.

The base line would follow the general direction of the coastline, recognizing the geographic realities of the area and the economic interest peculiar to the region and would enclose Canadian national waters.

On the Atlantic coast the base line would commence at the international boundary between Canada and the United States at the mouth of the St. Croix river, to southwest Head on Grand Manan island, across the mouth of the bay of Fundy to cape Fourchu, thence headland to headland to cape Sable, to cape Canso, to Scatari island, to Cape Egmont, to Channel head, Newfoundland. Thence to Ramea island, to Penguin islands, to Pass island, to Brunette island, to Green islands, to cape Pine and to cape Race. From cape Race the base line would be drawn to cape Spear, to Baccalieu island, to Flower point, to cape Bona-vista, to Cabot island, to cape Freels, to Offer Wadham island, to Little Fogo islands, to Bell island, to Groais island, to northeast point of Belle Isle, to cape Charles in Labrador. From cape Charles in Labrador headland to headland along the shores of Labrador to cape Mugford and cape Chidley and to continue in a general northerly direction across Hudson strait. (See Appendix No. 1.)

On the Pacific coast the base line would commence at the international boundary between Canada and the United States, in the Juan de Fuca strait, thence north to Bonilla point on Vancouver island. From this point the base line would run in a north-westerly direction, headland to headland along the

coast of Vancouver island to cape Cook, thence to Triangle island (outer island of the Scott islands). From Triangle island the base line would be drawn in a north-westerly direction to cape St. James (south end of Queen Charlotte islands) continuing along the western shore of Queen Charlotte islands headland to headland to Langara island (northwest tip of the Queen Charlotte islands). From Langara point the base line would be drawn in a northerly direction to cape Muzon (southern point of Dall island in southeast Alaska). (See Appendix No. 2.)

The proposed straight base line is shown on the attached charts. The line would ensure that the waters thus enclosed would be deemed to be Canadian national waters where no foreign vessel could fish without Canadian permission. This would provide partial protection to our fishery resources which have been developed to their present state by the expenditure of Canadian funds and effort.

### Breadth of Territorial Seas And Exclusive Fishing Zone

The diverging interest of nations has prevented an agreement on the establishment of an acceptable uniform breadth of territorial seas. The second United Nations conference on the law of the sea, held in 1960, came close to resolving the many problems particularly related to the breadth of territorial seas and fishing zones.

At this conference, Canada and the United States jointly sponsored the following proposal:

- (1) A state is entitled to fix the breadth of its territorial sea up to a maximum of six nautical miles measured from the applicable base-line.
- (2) A state is entitled to establish a fishing zone contiguous to its territorial sea extending to a maximum limit of twelve nautical miles from the base line from which the breadth of its territorial sea is measured, in which it shall have the same rights in respect to fishing and the exploitations of the living resources of the sea as it has in its territorial sea.
- (3) Any state whose vessels have made a practice of fishing in the outer six miles of the fishing zone established by the coastal state, in accordance with paragraph 2 above, for the period of five years immediately preceding January 1, 1958, may continue to do so for a period of ten years from October 31, 1960.
- (4) The provisions of the convention on fishing and conservation of the living resources of the high seas, adopted at Geneva, April 28, 1958, shall apply *mutatis mutandis* to the settlement of any dispute arising out of the application of the foregoing paragraphs.

While this joint proposal was not accepted by the necessary majority of nations to ensure implementation, it received the support of the main maritime nations of the world, and indicated the desire to establish a uniform rule of law with regard to establishing the breadth of territorial seas.

The fisheries council of Canada supports this joint proposal and urges the government of Canada to take whatever steps are necessary to establish the breadth of our territorial sea six nautical miles measured from the aforementioned proposed straight base line. In addition, Canada should establish an exclusive fishing zone contiguous to its territorial sea extending six miles



from the territorial sea line. The attached charts of the east and west coasts of Canada show the proposed territorial seas line and the exclusive fishing zone.

The exclusive fishing zone would be of benefit to the industry nationally. It would be of particular value in solving the problem of large trawlers interfering with the small vessels and gear operated by inshore fishermen in many areas of the east coast. The establishment of such an exclusive fishing zone appears to be the answer to this acute problem.

### Historic Fishing Rights

The historic fishing rights of nations in the waters contiguous to the coastline of Canada vary due to the peculiarities of the fisheries. Within the proposed Canadian national waters and the exclusive fishing zone, foreign fishing fleets harvest and are capable of harvesting the marine resources. In many instances the fishery is exploited without due regard to proper management and conservation programs.

On the Pacific coast, Canadians have traditionally fished the waters off the States of Alaska and Washington. The halibut and other demersal species were fished by Canadians in the gulf of Alaska and the Bering sea as far back as the turn of the century. On the other hand, there has been an extensive United States trawl, long line and troll fishery for halibut, ground fish and salmon in the waters off British Columbia.

Recently the fishing fleets of Japan and the U.S.S.R. have been exploiting the fishery resources of the north Pacific in the Bering sea and the gulf of Alaska. Canadian fishermen on the west coast cannot compete economically on the same scale as the Japanese and/or the U.S.S.R. fishing fleets, and consequently steps must be taken now to safeguard the marine resources that are adjacent to the coast line of Canada and the United States.

As both Canada and the United States claim historic fishing rights in the Pacific ocean in waters adjacent to each other's coastline, the fisheries council of Canada proposes that where a fishery is covered by treaty, for example the convention between the United States and Canada for the preservation of the halibut fishery of the northern Pacific Ocean and Bering sea, reciprocal fishing rights be recognized for the life of the treaty and for the stocks of fish designated.

On the Atlantic coast, the twelve member nations of the International Commission for the northwest Atlantic fisheries and four other non-members fish the marine resources of the convention area. In many instances catches by these foreign fleets are made inside the proposed straight base line. To protect the marine resources inside the base line, the fisheries council urges that in view of the proposed declaration that certain bodies of water become Canadian national waters, these specific bodies of water, i.e., the bay of Fundy, the gulf of St. Lawrence, the strait of Belle Isle, and other waters as enclosed by the proposed base line, be withdrawn from the convention waters of the international commission for the northwest Atlantic fisheries.

Two members of the aforesaid commission, France and the United States, have historic fishing rights in the proposed Canadian national waters as a result of the Treaty of Utrecht of 1713 (modified by a convention of 1904) and the Treaty of London of 1818. While reciprocal fishing rights for Canada do not exist in waters adjacent to the French or United States Atlantic coastline, the fisheries council recognizes the problems created by these long-standing treaties on the Atlantic coast.

It is, therefore, recommended that, in view of these long-standing treaties which exist on both coasts, that the government of Canada immediately enter

into negotiations with France and the United States with the objective of reaching a mutual understanding with regard to their historic fishing rights in Canada's national waters as enclosed by the proposed base line.

Nations not having treaty fishing rights with Canada would be denied access to the marine resources in Canadian national waters. With regard to these nations, the fisheries council proposes that the government of Canada implement clause No. 3 of the joint Canada-United States proposal as submitted to the 1960 law of the sea conference. This clause provides that any nation whose vessels have made a practice of fishing in the outer six miles of Canada's proposed exclusive fishing zone for the immediate preceding five years would have the right to continue to fish for a period of ten years.

#### Unilateral Declaration and Enforcement

The government of Canada, having reached an understanding with the United States and France and having determined a policy with regard to other nations not having historic fishing treaties with Canada, is urged by the fisheries council to make a unilateral declaration to all nations announcing her jurisdiction over fishery resources in the waters adjacent to her Atlantic and Pacific coastlines.

Unilateral declaration of the government's policy must be followed immediately by active enforcement of the base line and the policing of foreign fishing fleets in the exclusive fishing zone to seaward of the base line. In the council's opinion, enforcement is absolutely essential if Canada is to maintain her position in world fisheries.

#### Conclusion

Canada, as one of the pioneering nations in the field of international agreements for the conservation of the fishery resources of the sea, should continue to provide international leadership and protection for our Canadian marine resources.

Action by the government of Canada is required to:

- (1) declare certain bodies of water as Canadian national waters,
- (2) establish a straight base line to enclose the national waters,
- (3) proclaim an exclusive fishing zone to seaward of the base line,
- (4) recognize and negotiate historic treaty fishing rights,
- (5) make a unilateral declaration with regard to the aforesaid decisions,  
and
- (6) enforce the above progressive steps.

The Fisheries Council of Canada is aware that positive action in implementing the aforesaid progressive steps by the government of Canada will not solve all the problems of the Canadian commercial fishing industry. It will, however, bring about the orderly development of sound programs of fishery conservation and management for the benefit of present and future generations of Canadians.

Respectfully submitted,

Fisheries Council of Canada

R. L. PAYNE, *President.*



That esteemed signature ended the fisheries council of Canada brief of 1963, to which reference has been made so frequently in the debates on this bill in the Senate and in the House of Commons and in committee hearings in both places.

If we were writing that brief today, we would not change a line of it. It still reflects the considered views of the fishing industry, as represented by the fisheries council of Canada.

It has taken some time for me to arrive at the main reason for our presence here today. However, I hope you will agree that it has not been a waste of time to review this important subject from the standpoint of the fishing industry.

We are here today, at your invitation, because we feel that early passage of this bill is imperative. Unless action is taken quickly, more and more nations fishing in our proposed national waters will endeavour to establish historic rights. This would certainly make much more difficult what is already a most difficult task.

While we recognize the necessity of honouring established treaties with France and the United States, through negotiation and agreement, our position in respect to all other nations is to "phase out" their fishing operations.

We recognize the special problems to be faced in negotiating with the United States, a country which may well be forced to follow Canada's example in respect to this type of legislation. The question of reciprocal fishing rights between the United States and Canada, especially on the west coast, has very important implications for both countries. We are dealing, in effect, with a North American fisheries problem, not just a Canadian one. We have to take into account joint interests, intermingling of fish stocks, historical intermingling of fishing operations and the several fisheries treaties to which both countries are parties.

If the exclusive fishing areas for Canadian fishermen envisaged by this council's proposals result from the passage of this bill, and from the necessary negotiations with the United States and France, then the objectives of this council will have been achieved.

However, for the government to disclose all the cards in its hand, while negotiations are under way with all the countries involved, with their varied interests, would certainly not enable our negotiators to obtain the best possible arrangements for Canada.

We support, therefore, and urge on you to accept, this bill in its present form. We have confidence that the officials of the Department of External Affairs, the Department of Fisheries and other departments concerned recognize the deep concern of Canada's fishing industry on this matter and that they will do their best to have the government establish, in detail and as quickly as possible, definite base lines and exclusive fishing zones. Whether or not such exclusive fishing zones are based on the 6-plus-6 mile proposal as mentioned in our brief, or the 3-plus-9 mile proposal of the government, is immaterial from this industry's point of view.

We do emphasize to you, and to our government negotiators, the desirability of establishing base lines as proposed in this council's brief. These lines would designate as Canadian national waters Hecate strait, Dixon entrance, Queen Charlotte sound, the strait of Belle Isle, the gulf of St. Lawrence and the bay of Fundy.

The future welfare of this industry requires that early action be taken to designate these base lines, national bodies of water and exclusive fishing zones. This will give Canada an opportunity to protect, regulate and develop the fisheries in these areas for the benefit of Canadian fishermen. The future of this industry requires this protection and development.

We expect that our concern and our stated position will be recognized by you, the elected representatives of the people, and we urge that this standing committee on marine and fisheries report this bill, as submitted, with its full approval.

We shall be pleased to answer any questions from the members of the committee. We apologize that time did not permit production of this brief in both French and English, but Mr. Bernier will be able to answer any questions in French, if this is desired by any of the members.

Respectfully submitted,

Fisheries Council of Canada

D. F. Miller, *president*.

Mr. Chairman, with your permission and before any questions are asked I should like to clear up one point.

Mr. Howard, in the debate on this bill in the House of Commons, and the brief from the United Fishermen and Allied Workers' Union referred to this council as an "employees' organization", or words to the effect.

Mr. Bernier here takes a strong exception to that implication, on behalf of the some 3,000 fishermen who make up Quebec United Fishermen, a member organization of this council.

We know that approximately 3,000 members of the United Maritime Fishermen, who are members of four of our regional associations in the maritime provinces, feel exactly the same way. There are some 1,000 members of Co-operative Fisheries Limited in Saskatchewan, and about 2,000 members of the Prince Rupert Fishermen's Co-operative Association in British Columbia who are also members of this council. At a rough count, that means some 9,000 fishermen.

It is therefore obvious that this council can speak, if necessary, for more fishermen, spread over a much broader geographical area, than can any other association in Canada. When we speak, we certainly have very much in mind the welfare of the man who forms the backbone of this industry and without whom no segment of it can survive, namely, the Canadian fishermen. I hope we are all clear on that point; it should scarcely be necessary to mention it at all as it is an obvious fact.

We are not one segment of this industry, as Mr. Howard stated; we are the only national and truly representative fisheries organization in existence in this country. With that explanation, I hope we are not subjected to any further misrepresentation in this respect in the future.

The CHAIRMAN: Gentlemen, you have heard the brief presented by the Fisheries Council of Canada.

The officials of this council who are here with us this morning are now ready for questions to be directed to them.

Mr. MACLEAN (*Queens*): Mr. Chairman, I had a question that has arisen in my mind.

I do not think that Mr. Miller wanted to leave the wrong impression and, therefore, I want to be sure that we understand each other.

It would seem to me that the critical point so far as including the processes of establishing historic fishing rights is concerned would be dependent on when the baseline is drawn and the co-ordinate points fixed. When this bill is passed and becomes law the immediate effect will be to create an exclusive fishing zone based on the present basis, the sinuosities of the coast at the moment, but that alone will not exclude such areas as Queen Charlotte sound or the gulf of St. Lawrence, for example, until new baselines are drawn.



What is the position of countries which may continue to fish in these areas. I am thinking of Danish fishing in the gulf of St. Lawrence and this sort of thing during the interim period. It would seem to me the crucial date is the date on which the new baseline is established.

I am seeking information and not making a statement in this respect although it may seem that I am making a statement.

Mr. MILLER: Mr. Chairman, so far as the interim period is concerned we, in the council, have no knowledge of how long that interim period will be. We would hope that it would be a very short period of time. Should time or negotiations require that there be a lapse of time we feel that by the passage of this bill alone Canada would be serving notice on such fleets that were in bodies of water such as you have indicated that we do intend to have a phase out period if such a phase out period would apply to them, and it would serve notice in the very near future, we hope, that baselines as proposed in our brief would be declared by the government of Canada.

Mr. MACLEAN (*Queens*): That was all I was going to ask at this moment. I was really wanting to know from a legal position what the technical situation is; I would imagine that if we want to assert our rights with all countries that, although this bill gives notice of our intention, legally they still can continue to fish in these particular areas during these intervals. Of course, we all hope it will be short.

Mr. MILLER: Mr. Chairman, I think it is obvious that while those of us in the council have some desire to see rapid action in this regard it is a technical question which, I am sure, the Department of Fisheries or Department of External Affairs would have to answer as they are in a much better position than the members of our council.

The CHAIRMAN: Perhaps later we could give an opportunity to members to question officials from both the Department of Fisheries and the Department of External Affairs.

Would you proceed, Mr. Stewart.

Mr. STEWART: Mr. Chairman, I want to refer to the map which appears as appendix 1 at the end of this report.

You will notice that two co-ordinates were used to draw the baseline proposed here for the entire Atlantic coast line off the mainland of Nova Scotia, cape Sable and cape Canso. I wonder how it was decided that this long reach would be used rather than following a more articulated line which would come for example, quite close to Halifax.

Was this just an arbitrary decision made by the council or was there some principle behind this choice.

Mr. MILLER: No, it was not an arbitrary decision; it was a position that the council members took after considerable discussion with the member associations, which was supported by the total membership of the council.

This particular line was suggested by the Nova Scotia associations and discussed quite thoroughly by all the associations. We feel that that particular line is a simple line which avoids any going in and out along the coast. Fisheries in that area were discussed two years ago when we were preparing our original submission, and the representation from the Nova Scotia associations indicated the necessity of having that line from one end of the province to the other practically, excluding Cape Breton Island.

Mr. STEWART: Would you expound on that a little. I accept your proposition that it was necessary but I would like to know why.

Mr. MILLER: The proposal put forward by the council was put in such a way as to get the best deal for the Canadian fishermen. With this in mind we discussed this particular line and, having received the representations of the Nova Scotia associations we decided the stocks of fish involved and the practice

of the fleet in fishing that area required, if we were going to protect the stocks and the fishermen's livelihood, that the line should be drawn between the two points.

Mr. STEWART: In looking at the map one would assume that the line was drawn, as it appears here, simply for the sake of having as few co-ordinates as possible. Now, I understand what the witness says when he says he wants to give our fishermen as good an arrangement as possible but I am not at all sure that I understand how this does that other than by including a larger body of water than what this bill, if enacted, will establish as the inland waters of Canada.

Mr. MILLER: Mr. Chairman, if I might make just a further comment on this question, when we decided on this particular line we knew that we, as a council, obviously were not the final judge and arbiter on such a question and keeping in mind the livelihood of the fishermen and the industry involved—and, I must admit you might call it an arbitrary line—we were hopeful that the departments concerned would look at that line and accept it.

Now, in their negotiations with the treaty nations, or in their talks with the nations which claim historic fishing rights, this would obviously be a desirable line from our point of view, and we were hopeful that government officials would not modify that line because the council felt that this was a line which would serve the needs of the industry. We in the industry feel that we have sufficient arguments to justify such a long line, but this would be left up to the government departments to negotiate and finalize.

Mr. STEWART: Mr. Chairman, am I correct in thinking that on this same map the reach from cape Canso to Scatari island involves only two co-ordinates?

Mr. MILLER: That is right.

Mr. STEWART: And the same line of argument and explanation you gave previously would apply there also?

Mr. MILLER: That is right.

Mr. HOWARD: Mr. Chairman, now that Mr. Miller has transformed his organization to something a bit different from what it is normally conceived to be, I wonder if I could ask two or three questions based on the material in the brief without reading extracts from it, although the questions are based on it? The principal base for approaching this particular concept of a fishing zone in the territorial sea is the desire to preserve and conserve our fisheries for Canadian citizens. From the point of view of the west coast—and I have asked this question of other witnesses—to what extent would the proposal in your brief for the establishment of a base line system for a 12 mile zone, without taking into account other factors such as treaties with other nations, conserve our salmon fishery?

Mr. MILLER: Mr. Chairman, I think the proposal in our brief would provide an area within the proposed body of water as outlined in our brief through which the salmon would migrate to their home streams, such as in the central area of Skeena-Inverness or the Fraser river system where the fishery would be undertaken under regulations for conservation purposes completely under the jurisdiction of the Canadian Department of Fisheries. Without this line in the national waters it is conceivable that foreign fleets could come much closer in to the shore line of British Columbia, than if we had the proposed base line as we submit and certain bodies of water declared as national waters.

Mr. HOWARD: But it would still be possible for foreign fishing fleets to fish for salmon outside of the proposed 12 mile line?

Mr. MILLER: Again this is possibly a question that would be better answered by the government officials who are more knowledgeable in this regard. I would



say that as long as we have the international North Pacific treaty, we are assured at the present time that the Japanese will not be fishing that close to our proposed national or exclusive fishing zone waters. As I understand it, there is nothing legally to prevent other nations that are not parties to the North Pacific treaty from coming at the present time up to our present territorial waters and fishing. Fortunately, this has not happened today, but we feel that the line as proposed by the council would provide additional protection for the salmon resource if other fishermen come fishing within that boundary and this would enable our department to handle a resource for conservation and development purposes in a much better manner than if we allowed other nations to fish right up to our shore line or up to three miles of our shore line.

Mr. HOWARD: Have you any idea or knowledge of the effect that Japan—the most notable country fishing for salmon on the high seas—has upon our stocks?

Mr. MILLER: I am not as knowledgeable as Mr. Howard would like me to be, I am afraid. We in the industry leave this to the scientists of the Department of Fisheries and to the fisheries research board. From the information that those of us in the industry receive from the scientists we understand that very few of the Canadian salmon stocks are fished by other nations in mid Pacific under the present conditions of the North Pacific treaty.

Mr. HOWARD: Do you know whether or not the Alaskan home based salmon are caught on high seas?

Mr. MILLER: We can only go from the information provided by experts in the North Pacific treaty areas, and again, as an industry man, I can report that we are led to understand that Bristol bay salmon stocks may intermingle in an area in mid Pacific where they would be subject to fishery by the Japanese mid ocean fleet, but again, Mr. Chairman, I think there are experts in the Department of Fisheries who probably have a more detailed answer than I can give to Mr. Howard.

Mr. HOWARD: What I am trying to discover—and this is something with which we are all concerned—is, because salmon is a migrating fish which ranges I do not know how many thousands of miles out into the Pacific, are there other forces impinging on the salmon stocks than just our own fishermen within the proposed 12 mile zone? I am trying to find out what effect these other forces might have so as to see the extent to which this proposal might protect that particular resource. I am not trying to make you less knowledgeable than I think and I know you are, I am merely trying to see what decision the committee has come to with respect to the bill. I would like to ask a similar question with respect to halibut fishery, that is what other forces do you know are impinging upon the halibut stocks and to what extent will the proposal conserve them?

Mr. MILLER: The halibut stocks, as we know, range far and wide, maybe not as far as other species, but the large volume of halibut is taken within the Hecate straits, Dixon entrance and the Queen Charlotte sound area, and within the area bounded by the council's proposed 12 mile exclusive fishing zone. We feel that these stocks of halibut would be conserved for the use of Canadian fishermen and the fishermen of the United States who by treaty right would continue, we assume, to harvest the halibut. The stocks in the area, known as area No. 3 in the halibut commission, would be undoubtedly subject to fishery from nations other than Canadian and United States unless the North Pacific treaty has clauses which prohibit or limit the taking of halibut. As we mentioned in our brief, we can see the possibility of the United States possibly taking reciprocal action at a later date with regard to an exclusive fishing zone, and therefore the stocks of halibut in certain parts of the halibut commission area—area 3—would be protected by such reciprocal action. We have

pointed out the necessity, in our opinion, of honouring our treaty rights, because of the possibility of reciprocal action being taken by the United States, in which case we would expect that they would respect the treaty to which we were both signatories.

Mr. HOWARD: To which treaty are you referring?

Mr. MILLER: The halibut treaty.

Mr. HOWARD: The halibut commission? Two or three times you mentioned the treaty. You are referring to the halibut treaty or convention?

Mr. MILLER: That is right.

Mr. HOWARD: The position of the United States fishermen in what we propose to designate as our national waters and fishing by the Canadian halibut fishermen in what would be a comparable area in Alaska are not covered by treaty rights, are they?

Mr. MILLER: I understand they are, but again probably the experts from the Department of Fisheries could correct me if I am wrong. However, I understand they are covered by treaty rights.

Mr. HOWARD: I am going to refer to the wording of your brief which is contained on pages 9 and 10:

The question of reciprocal fishing rights between the United States and Canada, especially on the west coast, has very important implications for both countries. What are those reciprocal fishing rights? Are they confined to the halibut fisheries, or are there others?

Mr. MILLER: That refers to the halibut fisheries and to the salmon fisheries which are covered by the North Pacific salmon fisheries commission, and conceivably some pelagic fisheries, ground fisheries, in certain areas. At the moment the Canadian fishermen do not exploit a great amount of the bottom fishery off Alaska, for example. There is always the possibility that we will expand our effort in that area, in which case we would expect reciprocal fishing rights between the two nations.

Mr. HOWARD: It is not the reciprocal fishing rights that exist at the moment, then?

Incidentally, did I understand you to say that we have reciprocal salmon fishing rights in Alaska waters?

Mr. MILLER: No. If I gave that impression I want to withdraw it. What I was referring to was the fishing treaty between Canada and the United States with regard to the Fraser river stocks of sockeye and pink salmon.

Mr. HOWARD: That is really a division of our salmon which spawn, in our streams?

Mr. MILLER: Yes, as well as salmon that goes into Puget sound streams.

Mr. HOWARD: As well as the so-called reciprocal fishing rights?

Mr. MILLER: Yes.

Mr. HOWARD: You said "especially on the west coast"; is the implication there that there are reciprocal fishing rights between Canada and the United States on the Atlantic coast? Do we have rights to fish, for instance, in waters off the coast of the United States?

Mr. MILLER: No, we have not, Mr. Chairman.

Mr. HOWARD: I mean apart from whatever their territorial fishing zones might be—the high seas—and fishing there.

Mr. MILLER: No, we have not. I might mention, Mr. Chairman, that when we refer to the wording at the bottom of page 9 and the top of page 10 and talk about reciprocal fishing rights, we are dealing with the future of our



resource and we have stressed in our brief the fact that in the council's opinion we have to co-operate with the United States because we are looking, from a council point of view, at a North American fishery problem. Otherwise, we will have some pressures from other nations who are fishing, particularly on the Pacific side, and we know of the pressure that is upon the stocks of fish on the east coast. In our opinion, we will have to look at this as a North American problem with regard to which Canada and the United States must work very closely together in order to protect and develop the fishery resources that are common to both nations, and the stocks which fishermen from both our countries fish from time to time.

Mr. HOWARD: Then, if I assess it correctly, apart from the reciprocity relating to halibut on the west coast and perhaps some ground fish—and I understand they did fish black cod at one time in the Alaskan waters—the reference to reciprocal fishing rights is one of expectation. You have the hope that reciprocity will be extended if the United States will state their territorial sea. Is that the position?

Mr. MILLER: Yes, we are looking at this from a North American viewpoint and not solely from a Canadian viewpoint. We feel this is the only way in which we can deal with the offshore fishing fleets that will be moving to the area and thereby affecting our resource in the near future unless some action is taken.

Mr. HOWARD: I only throw this in as a passing comment. I assume from the words in your brief, in which you said at first that you are pleased that that Senate passed the bill without any alterations to it; that so far as you are concerned the negotiations or the discussions in which Canada is engaging, particularly with the United States but with other countries too, are proceeding satisfactorily and that as far as you know or are able to assess the situation there is no procrastination or delay or hindrance on the part of Canada.

Mr. MILLER: Mr. Chairman, as far as we are able to assess the situation, we believe progress is being made and we have confidence in the calibre of our government negotiators. We assume they are going about this matter wisely and that the negotiations are carrying on according to the best interests of the Canadian industry.

We were pleased that the bill went through the Senate unchanged because this helps to speed up the process of serving notice on other nations that Canada will declare an exclusive fishing zone. We agree with the hon. Paul Martin, who indicated to the Senate committee that we would all be happier “if the situation were such that we could finalize this whole matter in the one bill at this time.” However, we assume that the situation at this time does not permit this speedy action.

Mr. HOWARD: Then the important part of that is that it is necessary for us to declare without any hesitation that there will be a fishing zone of 12 miles? This is what we are talking about. Is it of paramount importance for that to occur without any undue delay?

Mr. MILLER: No, Mr. Chairman, I do not think that is the council's stated intention. We do not want Canada to put herself in a position in which hasty action will be taken which might eventually do some harm to the industry. We feel that the negotiations must proceed in an orderly manner.

As far as the council is concerned we feel that the government negotiators are doing a good job. I have no detailed information with which to substantiate that statement, but we do know it. Or let me put it this way: from personal experience in negotiating with other people I know it is not the thing to do to reveal your final position or your final proposal until such time as you have

had an opportunity to carry out some negotiations. In our opinion it would be very unwise for the government officials immediately to declare certain baselines if they are still in the process of negotiating.

Mr. HOWARD: I am not talking about baselines but about fishing zones as distinct from the straight baseline proposal in the bill.

Mr. MILLER: I think the quickest way would be for Canada to declare that there is an exclusive fishing zone at 12 miles, and to speed the passage of this bill.

Mr. HOWARD: Perhaps I did not phrase my question carefully enough, but Mr. Martin a few days ago told the committee that as soon as the bill passed and received royal assent, within a very short time—I tried to pin him down to the number of days, but you know Mr. Martin; he is not able to be pinned down in that way; but I gathered that the impression was that within the shortest possible time after the bill becomes law an order in council will be issued proclaiming the fact that we have fishing zones of 12 miles measured from the present convolutions or sinuosities of the coast. It is urgent that such a step be taken at the earliest possible moment. The impression I got from Mr. Martin, was that this was government policy, and from reading the brief I am sure you are almost in cahoots with each other in dealing with this matter. Is that the position of the council?

Mr. MILLER: Our view is that the passage of this bill would be the first progressive and logical step in this matter. There may be other reasons inherent in international law which would have to be handled by the officials of the various departments. But again all I can do is to repeat the fact that the council feels that early passage of this bill would enable Canada to accomplish the steps to which you have made reference.

Mr. HOWARD: I find you to be more difficult to get an answer from than Mr. Martin.

Mr. MILLER: Thank you very much.

Mr. HOWARD: I hope you will take that as a compliment.

The CHAIRMAN: Mr. Basford, and then Mr. Cashin.

Mr. BASFORD: In your brief you recognize the necessity in negotiation for the establishment of baselines. I would like to refer you to appendix II. I wonder if you show any need for delay in the establishment of baselines from the southern international boundary to Triangle island and between cape St. James to Langara island, on Queen Charlotte?

Mr. MILLER: If I understand you, is there any need for delay in the declaring of those baselines?

Mr. BASFORD: Yes.

Mr. MILLER: I have had a little experience in a field other than international negotiations, and I found, as was mentioned a minute ago, that it is unwise to state your official position until you have cleared a lot of the underbrush out of the way in the negotiations. The departments of government that are dealing with the negotiations I am sure are much better able to accept the situation as to when such a declaration should take place. I would sincerely hope on behalf of the council that very shortly following the passage of this bill, certain co-ordinates for the baselines would be established, particularly on the west coast—the west coast is shown in appendix II—and also for the east coast.

Mr. BASFORD: What I was getting at is that there are things which most of us conceive have to be negotiated in regard to Dixon entrance. I wonder if you feel there are things which have to be negotiated in regard to the baselines between the four points that I have mentioned?



Mr. MILLER: We would have no objection to it if the government, in its wisdom, thought it was the thing to do, to declare them piecemeal. Certain sections of the coast might be more easily defined at this time than other sections. I am afraid if I have not given you the short answer you are looking for, it is due to my inability to analyse your question that thoroughly. We feel that the government officials who are doing the negotiating are in a better position than our industry to determine when is the right time to declare the coordinates to establish the baselines. We urge on them quick action, but not such quick action that would destroy our negotiating position.

Mr. BASFORD: I appreciate that. But it came out in the Senate hearings that probably there would be a step by step declaration.

Mr. MILLER: Subject to that particular line, council, as represented by the west coast, feels that there should be no difficulty in establishing the baselines as suggested by yourself and as drawn in appendix II.

Mr. BASFORD: I wonder if you might put on the record the members of the fisheries association of British Columbia which are affiliated with the Fisheries Council of Canada.

Mr. MILLER: Yes, Mr. Chairman. The members of the fisheries association of British Columbia are as follows: the Anglo British Columbia Packing Company Limited, Vancouver; the British Columbia Packers Limited of Vancouver; the Canadian Fishing Company Limited, of Vancouver; Cassiar Packing Limited of Vancouver; Francis Millerd and Company Limited, of Vancouver; Nelson Brothers Fisheries Limited, of Vancouver; Queen Charlotte Fisheries Limited of Vancouver; and J. H. Todd and Sons Limited, of Vancouver.

Mr. BASFORD: In answer to Mr. Howard and in the brief of the council you have recognized the need for negotiations and the need for endeavouring to get along with the United States fishermen. It is often alleged against you that this is by reason of the fact that the companies operating in British Columbia are American owned, and therefore they are not interested in taking a national viewpoint. I would like to hear your answer to this allegation.

Mr. HOWARD: If Mr. Basford is trying to associate me by the use of my name with the other implications, I would say this is not correct.

Mr. BASFORD: I was not endeavouring to do so. I am sorry if you got such an impression.

Mr. MILLER: The member companies of the fishery association are all Canadian companies. Our main concern is the Canadian fishing industry. I am not familiar with the ownership of all the companies in the fisheries association, but I am led to believe that the vast majority of them are entirely Canadian owned.

Mr. BASFORD: And by reason of that they would have a national interest?

Mr. MILLER: Very much so.

Mr. BASFORD: Would you outline to me—you discussed it briefly earlier—the extent of Canadian operation in Alaskan waters? Following the same principles that the council has attempted in drawing the baselines of fishery zones in Canada, for the same basis as used by the United States along the Alaskan panhandle, would you outline to me the extent of Canadian operations within that area?

Mr. MILLER: Mr. Chairman, I assume Mr. Basford is talking about as of this time rather than in the future.

Mr. BASFORD: Yes.

Mr. MILLER: At this time I believe the only Canadian fishery that would be affected would be the halibut fishery. What will happen in the future is another question. We do not know to what extent certain Canadian companies

will endeavour to fish for shrimp, crab or ground fish in waters which conceivably could be enclosed by the United States in a manner similar to the lines we have been proposing in our brief.

There has been talk of Vancouver based companies moving into Alaskan waters for the king crab, although as yet there has been no action in this regard. There has been talk of organized fishing for shrimp. Presently there is fishing for halibut in certain areas which would be enclosed by a similar line. In the future, conceivably, there may be a ground fishery taking place in certain areas.

Mr. BASFORD: What is the extent of the halibut operation?

Mr. MILLER: Do you mean the extent of the halibut operation by Canadian vessels?

Mr. BASFORD: Yes.

Mr. MILLER: This can be better documented by reference to the report of the Pacific Halibut Commission. In 1962 in area 3—and this is an area designated by the Pacific Halibut Commission which encompasses a much larger body of water than we are inferring here—Canada took  $20\frac{1}{2}$  million pounds, and the United States took just over  $25\frac{1}{2}$  million pounds. Going back to 1961, the picture is somewhat similar. In 1961, Canada took, roughly,  $16\frac{1}{2}$  million pounds from area 3 and the United States took 24 million pounds. In 1960, Canada took just over  $18\frac{1}{2}$  million pounds, and the United States just under  $21\frac{1}{2}$  million pounds. I have the figures going back to 1955, but as I indicated, I am sure a perusal of the Pacific Halibut Commission's report would give a complete breakdown. I am not familiar enough with the report to know whether they break down the actual area in certain bodies of water so that it could be determined that a certain portion of the catch in area 3 was taken in waters conceivably closed within an exclusive fishing zone as we have suggested.

Mr. HOWARD: May I interrupt to ask that you reiterate the 1961 figure?

Mr. MILLER: In 1961, the total halibut catch in area 3 for Canada was, roughly, 16,400,000 pounds, and for the United States 24 million.

Mr. HOWARD: Thank you.

Mr. CASHIN: I would like to ask a question concerning an area which has a relatively straight coast line. I may take, for example, the area from St. John's, down the coast of Newfoundland, and around to Cape Pine; it is a relatively straight coast line. Could you tell us whether your chief interest here is to set up a fishing preserve for yourselves, or is it to enable the Department of Fisheries to conduct proper conservation measures? You will see that that area is considerably different from, say, the gulf of St. Lawrence.

Mr. MILLER: Mr. Chairman, the particular area specified is an area that is comparable to many other areas. I agree I could not compare it, for example, to the gulf of St. Lawrence. However, these lines were drawn with the idea that the stocks of fish within the exclusive fishing zone and within any natural water enclosed by the baseline would allow the Department of Fisheries the opportunity to regulate fishing in that area so that the industry would benefit in the long run.

I might mention one or two other general points in respect of the protection that might be afforded by the baseline, and the exclusive fishing zone. We think it would provide some protection. Such a limit would completely cover some resources, such as lobsters on the east coast, crab and shrimp on the west coast, and demersal species, and herring which congregate in the waters enclosed by the proposed fishing zone. Such a limit will provide an area free from interference by the large vessels of many nations now operating in such waters, which is a matter of great significance to our shore fishermen operating smaller craft.



In such areas there will be a greater availability of fish for our fishermen simply because fewer boats will be operating in these waters. This should influence the catch per unit of effort, giving greater productivity per vessel. This would be of particular significance in the gulf of St. Lawrence because it would be coupled with an increase in the average size of the fish, if the fishery were not being exploited by foreign fleets. In such areas, for some species conservation measures would be made much easier because these waters would come completely under our jurisdiction, and we could thus impose our own regulations. At present, even where an international agreement is in effect, as is the case of the International Commission for the Northwest Atlantic Fisheries, it is sometimes difficult to get agreement of all countries on conservation proposals, and, in addition, it is a very slow process.

That is a general answer to your question, Mr. Cashin. We feel the conservation of our resource would be aided materially by such lines.

Mr. CASHIN: When you say the industry you are including the inshore fishermen?

Mr. MILLER: By all means.

Mr. CASHIN: I gather by your answer that the inshore fishing industry in that similar area is somewhat different to that of the bay of Fundy or the gulf of St. Lawrence?

Mr. MILLAR: Yes.

Mr. CASHIN: From time to time, fears have been expressed that if Canada proceeds with the steps envisaged in this bill, the United States of America would retaliate against Canadian fisheries' exports. Do you share these fears?

Mr. MILLER: I think a study of the figures in respect of trade between our two countries, particularly with reference to fisheries products, would indicate that the United States requires the fish which come from Canada.

Again, to repeat what I said before, the council has looked at this whole question from the North American point of view. We need the market in the United States for our product and the United States needs the raw product and, in many cases, the finished product that the Canadian industry is able to provide it with, so I think again the general trade picture between Canada and the United States would possibly preclude any action by the United States, as you have suggested.

Mr. CASHIN: Thank you.

The CHAIRMAN: I think Mr. Howard caught my eye but Mr. Crouse has not had an opportunity of asking any questions as yet.

Mr. CROUSE: Mr. Chairman, the fisheries council has recommended in its brief, and I understand still recommends, taking unilateral action in establishing base lines; is that correct?

Mr. MILLER: In respect of the nations with which we have treaty rights and those that claim historic fishing rights we feel the government should continue to negotiate final arrangement.

Mr. CROUSE: The countries to which you refer are France and the United States?

Mr. MILLER: Those are the two nations with which Canada has treaty rights, yes.

Mr. CROUSE: Mr. Chairman, in the brief the council has recommended that the base lines be drawn, and they state these lines would designate as Canadian national waters Hecate strait, Dixon entrance, Queen Charlotte sound, the strait of Belle Isle, the gulf of St. Lawrence and the bay of Fundy. As a representative from the maritimes speaking in respect of the east coast I concur with the recommendations of the council but I should like to know whether, following negotiations with France and the United States, in the event these negotiations

are not favourable to the recommendations of the council and, for example, agreement cannot be reached to seal off the gulf of St. Lawrence as Canadian national waters, the fisheries council would then recommend that unilateral action be taken to declare the gulf of St. Lawrence, for example, as part of Canada's national waters?

Mr. MILLER: Mr. Chairman, it is impossible for me representing the council to forecast what action will be taken by the government. We would certainly hope that the situation, as you have expressed it, would not take place. If, and this is again looking into the future, such a situation did occur we would, as a council, have to meet and at that time reconsider the whole picture as it stood. Mr. Chairman, I am afraid to presuppose certain situations, and I am not in a position as representing the council to speak for that council in respect of that long range program. We have submitted our views as we feel in the best interests of the council members and we sincerely hope that the government is going to take this action as we have suggested.

Mr. CROUSE: Mr. Chairman, my question is posed because of the fact that council has named geographical points or co-ordinates but the bill does not contain co-ordinates.

Mr. MILLER: That is right.

Mr. CROUSE: You have also recommended that if these base lines are not drawn from the co-ordinates mentioned unilateral action should be taken. I am trying to understand what your council has meant by recommending the taking of unilateral action by the government on this particular matter, because we are actually working in a bit of a vacuum in respect of these unnamed geographical co-ordinates. The fact that you prefer certain points is good but these points are not defined by the government in this bill.

Mr. MILLER: Mr. Crouse, I think I have your question a little better in my mind now. I think what the question refers to is the order in which the council would like to see action taken. I would refer you to the conclusions in our original brief, which are printed on page 8 of our current brief, and that is the one with the grey cover. At the bottom of page 8 under "Conclusions" we list a total of six points we should like to see the government undertake.

It appears to us that the bill we are discussing covers in a general way the first three points, and those three points are: "(1) Declare certain bodies of water as Canadian national waters; (2) establish a straight base line to enclose the national waters and, (3) proclaim an exclusive fishing zone to seaward off the base line." These points are being kept in mind I assume when negotiations take place, recognizing the historic treaty and fishing rights.

The fifth point we make is, "To make a unilateral declaration with regard to the aforesaid decisions," and the sixth one is, "To enforce the above progressive steps."

At this point, while negotiations are still under way and while negotiations are taking a little longer than we would hope they would take, we would feel that unilateral declaration would come after the first four points, as listed in our conclusions, have been settled.

Mr. CROUSE: Mr. Chairman, there is just one doubt still in my mind. In order to be effective these bodies of water must be sealed off for conservation measures and I am still not certain whether the council would then recommend unilateral action be taken in the event agreement cannot be reached on this proposal. We still have not, I believe, teeth enough in Bill No. S-17 to actually enforce the sealing off of these bodies of water, which would be most desirable.

Mr. MILLER: Mr. Chairman, if there is a change from that indicated in our brief we would take action at that time. Again I cannot tell you what action



we would take but I would venture to guess, and personally support, that we would go back to the government and ask for conditions comparable to our submission today in order that the industry would benefit from such action.

Mr. CROUSE: Thank you Mr. Miller.

Mr. HOWARD: Mr. Miller gave some figures earlier in respect of the halibut catch in area 3 which were gleaned, I take it, from the halibut commission's reports. In respect of 1962 he stated that Canadian halibut fishermen caught in area 3, 20,500,000 pounds of halibut and that United States fishermen in the same area for the same year caught 25,500,000 pounds of halibut.

Mr. MILLER: Yes.

Mr. HOWARD: At an earlier meeting there was tabled and made an appendix to the Minutes of Proceedings and Evidence a statement in respect of foreign fishing off Canadian coasts as prepared by the Department of Fisheries. Perhaps I could quote from that appendix. It states:

The following information is based on 1962 figures, being the most up to date and complete reports available. Figures are based on estimates as no separate statistics have been kept by anyone of catches inside or outside the proposed 12-mile fishing zone. The estimates are based on the knowledge of Canadian fishery biologists about the operations of foreign fleets. Estimates are also being made by the countries claiming historic fishing rights. When these become available they may differ considerably from our own estimates.

I wanted to read that information primarily to reemphasize, if necessary, that these are estimates only and not factual figures.

Also in this appendix, in respect of halibut catches on the Pacific coast, appears the following statement:

Total American catches off Canadian shores in the 3-12 mile zone in 1962 totalled about 1 million pounds. This compares with a Canadian catch of about 1.2 million pounds in the 3-12 mile zone off Alaska.

I wanted to refer these figures to you because anyone reading these proceedings could very easily come to the conclusion or opinion that the Canadian catch in a comparable 3-12 mile zone off Alaska would be 20,500,000 pounds when in fact, according to the estimate of the fisheries department, it was 1.2 million pounds. Without arguing the point I just want to put that estimate on the record because you yourself and the department have said that there are no actual statistics kept in respect of the catch in or out of a 12 mile line.

Mr. MILLER: Yes. As Mr. Howard indicated, in my remarks in connection with the catch made by American fishermen in area 3, I specified this was from the total area and we in the industry had no way of knowing how the breakdown would develop in that area.

Mr. HOWARD: I am finding it difficult to appreciate from what base your council is speaking because at one stage, in making special reference to the fisheries association of British Columbia, you say that your organization has nationalistic concepts in mind and are concerned about the preservation of fisheries from a national point of view; and, on the other hand, you say you are concerned about it from a North American point of view. I merely am saying that from time to time there is some doubt in my mind when you make a particular point whether you are speaking from a nationalistic or a North American point of view. I am sure you agree, depending on which point of view you take, that it could flavour the opinions expressed.

Mr. MILLER: When we look at it from an international point of view we are looking at the fact that we are dealing with marine resources which are available to many nations at the present time. These resources are not similar to our mineral resources or our forest resources; they move around. As a consequence, when it comes to conservation and development of these resources on our coasts in the council's opinion we have to look at this from a North American point of view, and we also have to look at the harvesting of these resources from a North American point of view. The government of Canada has spent a lot of money in conserving resources and we feel resources so conserved should be for the use of Canadian fishermen. But, we also recognize they do move around and, therefore, this is why we look at the resources from an international or North American point of view. Mr. Basford raised the question whether or not the companies involved in the fisheries association were looking at it from a nationalistic point of view, and I would say they definitely are.

Mr. HOWARD: And, from an economic point of view also, I would assume.

Mr. MILLER: Yes.

Mr. STEWART: Mr. Chairman, I wanted to ask one or two related questions because I did not quite understand what Mr. Miller said in response to Mr. Crouse.

On page 4 of the presentation now before us we have a sentence which reads:

On the Atlantic coast the strait of Belle Isle, the gulf of St. Lawrence and the bay of Fundy should be declared and recognized as Canadian national waters in the same manner as Hudson's bay...

and so on.

Then, at page 8 it is stated that:

Action by the government of Canada is required to declare certain bodies of water as Canadian national waters.

I assume that the point refers to the bodies of water mentioned earlier and, specifically, to the gulf of St. Lawrence?

Mr. MILLER: Yes.

Mr. STEWART: Now, is there any doubt whatsoever in your mind or the corporate mind of the fisheries council in respect of Canada's right to the gulf of St. Lawrence?

Mr. MILLER: The co-operative on my right might take exception to the word "corporate" but, again, we as a fishing industry and the council feel that the gulf of St. Lawrence should be declared as Canadian national waters.

Mr. STEWART: And that declaration merely would be a statement of established right.

Mr. MILLER: This would have to be left to the departments concerned. I am not familiar with the procedure that would be required nor am I familiar with the international law involved in making such a declaration. In this connection we can only prod and leave the actual action to the departments concerned.

Mr. STEWART: That was not quite my question. Presumably if the council feels that this declaration should be made it believes that the government of Canada would be proceeding on substantial grounds for making such a declaration. Is that correct?

Mr. MILLER: Yes.



Mr. STEWART: You feel that the government of Canada would have adequate legal reason for making such a declaration, and there is no doubt whatsoever in your mind in that connection?

Mr. MILLER: Well, again, Mr. Chairman, when you refer to adequate legal reasons I am afraid I am not qualified, nor are members of the council at this table, to say whether we have adequate legal rights to make such a statement. But, in our opinion we feel the gulf of St. Lawrence should be considered Canadian national waters.

Mr. STEWART: It seems to me there is a contradiction there. You are saying on the one hand you do not know whether we have a legal right and then on the other hand you say we should proceed to declare these Canadian national waters.

Mr. MILLER: I am not a lawyer; I will have to leave that question to Mr. Ozere and others. But, as I say, this is the position of the council.

Mr. STEWART: I am interested in your presentation.

Mr. MILLER: That is right.

Mr. STEWART: We will be talking to Mr. Ozere later. I am looking now at page 9, where you mention the fifth concept making a unilateral declaration with regard to the aforesaid decisions and you say that there was no question but that unilateral declaration would apply to point 1, naming certain bodies of water as Canadian national waters. Earlier in reply to Mr. Crouse you implied if the government of Canada got into any major or minor difficulty in the negotiations you would then have to have a meeting of the council. It seems to me that your original brief does not present that view at all.

Mr. MILLER: I am sorry if I misunderstood Mr. Crouse's question. The reference to the council having to come together again would be if the final declaration by the government varied from the submissions we have made. Perhaps I misunderstood.

Mr. STEWART: You would be prepared to recommend to this committee that a unilateral declaration should be made declaring the gulf of St. Lawrence, *inter alia*, to be a body of water included within Canada's internal waters.

Mr. MILLER: Yes, following the due process of negotiations.

Mr. CROUSE: I have a follow-up question in this respect. You in the fisheries council believe then that in the event any of the bodies of water which you have said should be declared as national waters are not accepted by negotiation, the government then should take unilateral action and declare them as Canada's national waters. Is that correct?

Mr. MILLER: No, I do not think I said that. What I said was that after due negotiations unilateral declarations should be to the effect that these bodies of waters are Canadian national waters, taking into account the result of the negotiations, which would take into account treaty rights.

Mr. CROUSE: I find it rather difficult to establish in my mind just what you mean by "unilateral action". If Bill No. S-17 contained the geographical coordinates that you recommended, or that the fisheries council recommended, then we would know that this particular bill had sufficient teeth as a negotiating instrument with other countries as well as with France and the United States with whom we have treaty rights. Unfortunately, however, this bill has wide powers but it has not definitive points on which we can debate and discuss, and I find it difficult to understand your suggestion, or the fisheries council suggestion, that unilateral action be taken for establishing these baselines when the bill does not contain anything definite which would inform us on what the three countries—France, the United Kingdom and Canada—will be negotiating upon.

Mr. MILLER: The unilateral declaration would be for those nations that do not have treaty rights with Canada. This point 5 would cover those nations, in other words it would be an announcement to the world at large. However, again as I mentioned earlier, we feel that the government should not tip their hand and reveal what they hope to accomplish if they are still in the middle of the negotiations, but certainly the unilateral declaration would be for those nations with whom we do not have treaty rights. Again, I would have to say that we would leave it to the departments concerned which are in a far better position than the council to determine the time at which such statements should be made.

Mr. CROUSE: I thank the witness for his reply, but I still feel there are many members of this committee who are not fully aware of what is meant either by the council or by the government when they state that unilateral action has been taken. I would like someone to define a little more clearly what is meant by "unilateral action". It is action by negotiation when countries concerned do not agree, and the government of Canada can then withdraw or take up a new position. It is not unilateral action, to declare these bodies of water as Canada's national waters where conservation measures can be obtained. In my view this is action by negotiation. I would like anyone in the committee to define more clearly what is meant by the term "unilateral action" as it is written in this bill.

Mr. MILLER: Mr. Chairman, I should like to make one comment. Mr. Crouse has been speaking about unilateral action. Our brief says, "unilateral declaration". There may be a legal difference between "action" and "declaration".

If I might make one other point, we were all hopeful that the 1958 and 1960 law of the sea conferences in Geneva would accomplish an awful lot more than the conferences did accomplish, and the lack of international action had a bearing on the council's deliberations and the final conclusions in our brief. We felt that it was time, because of the lack of action at the international level, for Canada to take some action with regard to the exclusive fishing zones.

Mr. MACLEAN (*Queens*): With regard to your conclusions on page 8, I just have two or three questions. Why does the council divide Nos. 1 and 2? Did the council have in mind that, firstly these bodies of water in the gulf of St. Lawrence, the strait of Belle Isle, and Hecate straits, that we have been talking about, should be declared in the legislation as national waters as a separate thing? Secondly, the straight baselines enclose national waters, but the straight baselines enclose a lot of other small bays along the coast anyway. What is really the intention in separating those two, or what is the intention in recommending that straight baselines be drawn in such a way that they would enclose these bodies of water?

Mr. MILLER: I think possibly there is almost too much emphasis being placed on the sequence as we have outlined it in our conclusion. This may be our fault in laying them down in this way, but these are things that we felt should be done, and we are certainly not presumptuous enough to suggest to the government or to their officials that there is only one possible sequence in which these proposals could be implemented. We certainly feel that the straight baseline should enclose the bodies of water that we have indicated in our brief, such as on the west coast, the Dixon entrance, the Hecate straits and Queen Charlotte sound, and on the east coast we specified the strait of Belle Isle, the gulf of St. Lawrence and the bay of Fundy.

Mr. MACLEAN (*Queens*): When you separated these did this imply that this is something on which we should perhaps be more insistent; that this is a minimum on which we should insist, and then perhaps be a little more flexible, if necessary, on the straight baselines generally?



Mr. MILLER: I think this is a true assumption in that those bodies of water which have been mentioned are the bodies of water where the resource is of great value to the Canadian fishing industry, and specifically we feel those bodies of water should be declared as national waters.

Mr. MACLEAN (*Queens*): Did I gather the correct inference from what the witness said earlier that at the present moment if the United States were to take similar action with regard to Alaska as we are doing now under this bill, the only historic fishing rights that Canada has presently established in the waters on the Alaskan coast would apply to halibut fishery only?

Mr. MILLER: That is right, to the best of my knowledge.

Mr. MACLEAN (*Queens*): I have a further question in relation to the diagram of the map of the west coast giving these baselines you suggest plus the 12 mile exclusive fishing zone. As things stand at the moment, would that line include practically all the Canadian herring fishery at the present time?

Mr. MILLER: That is right.

Mr. BIGG: I think my question has been answered already, Mr. Chairman.

Mr. HOWARD: I wonder if Mr. Miller could tell the committee the council's view on the differences between the territorial sea and the fishing zone?

Mr. MILLER: The difference in view between the territorial waters and the fishing zones? Is Mr. Howard referring to the six plus six, as outlined in our brief?

Mr. HOWARD: Are you proposing six plus six?

Mr. MILLER: Our brief has proposed the six plus six.

Mr. HOWARD: And six miles territorial waters?

Mr. MILLER: Six miles territorial waters and an additional six miles, giving a total of 12 miles of exclusive fishing.

Mr. HOWARD: Can you tell me the difference between the two?

Mr. MILLER: The government has proposed the three miles territorial waters and the additional miles, as we all know, which will make a total of 12. If I have misinterpreted your question I hope you will check me on it, but I think the answer to it is that the exclusive fishing zone will be 12 miles, be it six miles and six or three and nine, and would permit the Canadian fishermen to fish in that area as well as in the national waters that the baseline would enclose. Any nation that has historic fishing rights would be permitted to continue to fish in the exclusive fishing zone over a phased out period.

With regard to the question of whether it is six plus six or three plus nine, our main concern in the council is to have an exclusive fishing zone of 12 miles from the baseline.

Mr. HOWARD: Yes. Then the council really has no opinion one way or the other with regard to a territorial versus fishing zone so long as it is 12 miles and so long as the jurisdiction of Canada is exclusive in that area?

Mr. MILLER: As far as the fishing industry is concerned, you are right. There may be other complications that may arise from having a 12 mile territorial zone, but this I would leave to the government departments concerned.

Mr. HOWARD: Why did you choose six plus six? I think the answer is obvious but perhaps we should have it on record.

Mr. MILLER: Because of the law of the sea conference at which the joint United States-Canadian proposal was six and six. We had hoped that such a proposal would be successful at the international table, but it was not. However, we felt this was the most appetizing one to present.

The CHAIRMAN: Are there any other questions?

Mr. BIGG: I do not know whether this is relevant or not. I am just wondering, however, how we hope to bargain. It seems to me that we are asking for everything and yet have very little to offer. What sort of bargaining position are we in when we have nothing to offer? Is there anything to offer?

Mr. MILLER: Mr. Chairman, the Canadian negotiators have our complete sympathy. As I mentioned earlier, I have done a little negotiation in other areas and I recognize that they are in a very difficult position. We wish them well, and anything we can do as a council to aid and abet the situation we will be very glad to do.

Mr. HOWARD: Perhaps a very brief quotation from the congressional record in the United States will answer Mr. Bigg's question in part. I think it is invalid, myself; however, this is what United States congressman Clausen from California had to say when this subject was being discussed:

Could the gentleman tell me in his own mind as to why the Canadian government is dragging its feet as it were on this matter?

Then congressman Tollefson from Washington said:

I can only guess, of course, and perhaps it would not be fair to guess without knowing exactly what the situation is. But over the years, since I have been a member of congress, the nations of the world, the small nations so to speak, have learned through experience that if they play hard to get or act as though it is difficult for them to reach an agreement, they have learned that they will get consideration by this kind of activity.

This happens, as I say, also with reference to the small nations such as those in Africa, as well as the older established nations. They know they can get concessions from our government if they act, as I said earlier, hard to get.

Perhaps that is the answer.

The CHAIRMAN: Are there any further questions, gentlemen?

Thank you, Mr. Miller, Mr. O'Brien and Mr. Bernier.

What are the wishes of the committee with respect to other business? I understand the officials of the Department of Fisheries will be absent from Ottawa for the remainder of this week after today.

Mr. MACLEAN (*Queens*): Mr. Chairman, may I make a suggestion? The questions which the committee might want to put to the officials would not be very extensive and not very lengthy. At least, that is my own opinion. Therefore, I would suggest that we spend a period of time questioning them in the hope that we might conclude this and then be in a position to let them go away freely to their other duties.

Mr. HOWARD: I think Mr. MacLean's suggestion is a very commendable one. I would, however, like to make a request on behalf of Mr. Barnett, my colleague, who is unable to be here today. Mr. Barnett has a number of questions to put to Mr. Martin, the Secretary of State for External Affairs. That being so, I wonder whether we could consider arranging for Mr. Martin to come back at some subsequent time—perhaps to our normal meeting on Thursday—to go into the aspects that Mr. Barnett wanted to pursue.

The CHAIRMAN: The Minister of Fisheries will not be here on Thursday, nor will his officials.

Mr. BASFORD: I suggest we take Mr. MacLean's suggestion and carry on until 12.30 or one o'clock and then see what is the position.



The CHAIRMAN: Yes, and then perhaps we can have a steering committee to discuss this matter.

Mr. Miller, Mr. O'Brien and Mr. Bernier, we thank you very much for coming today.

Now we have present with us the Minister of Fisheries; Dr. Needler; Mr. Ozere; Mr. Wershof and Mr. Gotlieb of the Department of External Affairs; Mr. MacGillivray of the Department of Transport; and Mr. Affleck of the Department of Justice. As the Minister of Fisheries and the Department of Fisheries officials will be absent after today perhaps we should hear them first.

Mr. Basford.

Mr. BASFORD: My question does not relate to the Department of Fisheries.

The CHAIRMAN: Then, if the committee is agreeable, perhaps it will save time if we question any of the officials here. What is the committee's feeling on this? Are you agreed that we should put questions to any of the officials rather than taking the officials of the Department of Fisheries first?

Agreed.

Mr. BASFORD: I would like to know if the privy council report of 1909 which declared Hecate strait to be territorial waters of Canada was ever challenged by any foreign government, and what is the validity of that declaration?

Mr. M. H. WERSHOF (*Legal Adviser*): I wonder if questions on external affairs might be asked later on when we are in the box, because it is a little difficult to answer them right now.

Mr. HOWARD: Protocol!

Mr. WERSHOF: My name is Wershof, and I am from the Department of External Affairs. Although I cannot give a really full answer to the question, maybe an attempt to answer it would come better from our department. My understanding is that the order in council and at least declarations over the years have made it clear that there is no intention to interfere with United States fishermen in Hecate strait. There has never been any occasion for a legal dispute. But I think it is significantly clear as a matter of public record that the United States has never acknowledged or admitted Canadian sovereignty over Hecate strait. As for other countries, as far as I know, they have never said anything. The occasion has not arisen, because, as the Minister of Fisheries and others have testified, other countries have not been fishing there.

Very often governments of foreign countries do not go out of their way to make official declarations with respect to a claim asserted by some other government unless that claim is a practical matter touching them. I am not aware of any other government ever having acknowledged publicly the Canadian government's own claim that Hecate strait was internal waters of Canada. I think it is well known that the United States government has never acknowledged or admitted the correctness of such a claim.

Mr. BASFORD: Is it correct to say that we have always made it clear that such a declaration applies to the United States, but that the United States as a matter of public record has never recognized it, and that the privy council declaration has no particular value in the present negotiations vis-à-vis the Americans?

Mr. WERSHOF: No, I would not put it that way. I do not have the order in council in front of me at the moment, but I think what the Canadian government said was that American fishermen could carry on in Hecate strait. To the extent that the Canadian government, starting in 1909, has asserted that Hecate strait is Canadian waters, that statement applies to everybody.

What the order-in-council said, in effect, was that these are internal waters of Canada, but that we can permit the fishermen of country "X", in this case the United States, to go on fishing. I believe that is what the Canadian government said in 1909, and the different ministers of fisheries have on occasion repeated it in the House of Commons. If anyone is interested, I have found some references to a statement which Mr. Sinclair made when he was minister, when he put it pretty well in these terms: that Canada has said that these are Canadian waters and that American fishermen can fish therein.

Mr. HOWARD: I wonder if Dr. Needler or Mr. Ozere would have any knowledge of this? I have been given to understand, although I have not been able to trace it down or check it out, that because France is a member nation in E.E.C., or the European economic community, there is within that organization or group some reciprocal fishing arrangement, and that the government of France is in the process of either building or planning upon building some extensive harbour facilities at St. Pierre et Miquelon to be used by other countries with France in this E.E.C., or free trade group, or whatever it is called. Does Dr. Needler have anything to say about that?

Dr. A. W. H. NEEDLER (*Deputy Minister of Fisheries*): I do not know what arrangements there might be within the organization, but I do know that France has been taking some steps to improve the harbour facilities at St. Pierre et Miquelon. I imagine these could be used as a base for European operations, but I do not know of such an agreement.

Mr. HOWARD: I wondered if perhaps Mr. Robichaud might know what this is all about. I wonder whether the committee might be provided with whatever information the government is able to lead, because of the proximity of these two islands to the Canadian coast, and so on. Presumably they would be excluded from the 12 mile fishing zone under a particular provision of the bill, but I would like to have the information.

Hon. H. J. ROBICHAUD (*Minister of Fisheries*): As Dr. Needler has stated, we have no specific information as to the intention of the French government with regard to such an establishment at St. Pierre et Miquelon. This is a matter for the particular government to decide, and then should there be interference in Canadian waters, it would be a matter of negotiation between the two governments. We have no specific information. But there has been rumour to that effect. Actually, Mr. Chairman, unless Mr. Howard has further questions I wonder if I might make a very brief statement which will answer also in part a question which was raised by Mr. MacLean, in questioning Mr. Miller earlier this morning.

As the Secretary of State for External Affairs could not be present today, he asked me to make a few remarks in reply to questions raised on June 9, concerning the time when this bill will be proclaimed. A similar question was asked this morning by Mr. MacLean, as I have just stated.

As the Secretary of State for External Affairs has already indicated, section 4 of this bill establishing fishing zones of Canada, which we claim at this time is the most urgent part of the bill, will be proclaimed without delay. With regard to those countries with which we are now negotiating, Canadian laws will not be immediately applied, but countries which do not now fish in our waters will not be able to come in.

As soon as section 4 is proclaimed this bill will have such an effect on other countries which are not now negotiating with Canada.

So far as the rest of the bill is concerned, including section 5 which enables the governor in council to draw straight baselines, it—that is to say, the bill—will be proclaimed in due course. The government does not expect any undue or substantial delays in proclaiming and thus bringing into force the rest of the bill.



Immediately on proclamation, the governor in council will be authorized to proclaim lists of points for specific baselines off our coasts. Mr. Martin already has said there may be several lists and the first baselines will be proclaimed for those areas where our discussions or negotiations are concluded. I think this answers part of the question asked by Mr. MacLean this morning.

Mr. HOWARD: Are you still having discussions or negotiations with the United States in respect of the Pacific coast?

Mr. ROBICHAUD: Definitely. The first phase of the negotiation is completed, and we are resuming as soon as possible the second phase of our negotiations. So far as the United States is concerned, it applies both to the Atlantic and the Pacific coasts.

Mr. HOWARD: But you have not concluded the negotiations or discussions with the United States with regard to the Pacific coast?

Mr. ROBICHAUD: Negotiations are not concluded with any of the countries with whom we have been negotiating.

Mr. HOWARD: This may be a question which more properly comes under the aegis of the Secretary of State for External Affairs; however, may I ask whether Japan, for instance, as one nation, has approached the Canadian government recently with regard to the subject matter of Bill No. S-17?

Mr. ROBICHAUD: When Mr. Pearson made his declaration on June 4 last, he made clear that any country which had an interest in, or was concerned with, fishing in the proximity of our Canadian coasts, whether Pacific or Atlantic, would be welcome to make such representations. Such representations have been made by Japan.

Mr. HOWARD: Are you in the process of any negotiations with Japan?

Mr. ROBICHAUD: I would not use the expression negotiations.

Mr. HOWARD: Discussions?

Mr. ROBICHAUD: There has been discussion with Japan. Japan has made certain representation, but it is not a matter of negotiation, because Japan has no historic fishing rights in our waters.

Mr. HOWARD: Can you tell us what is Japan's claim?

Mr. ROBICHAUD: As I said, Japan has no historic rights, so they have no claims; they cannot claim historic fishing rights in Canada's waters.

Mr. HOWARD: May I ask what points Japan has raised with Canada, or what claim she makes?

Mr. ROBICHAUD: I do not think I could define what claim Japan has placed before us in view of our intention to proceed with this bill. I might use the expression that Japan has objected to certain action being taken, or rather may have objected to certain action being taken by the government, but the discussions which have taken place are confidential discussions which I cannot reveal in detail.

Mr. HOWARD: You cannot tell us what Japan has proposed to Canada? I am not asking you to divulge what you have proposed to Japan.

Mr. ROBICHAUD: There has been no proposal made by Japan to Canada.

Mr. HOWARD: Just discussions?

Mr. ROBICHAUD: Yes.

Mr. HOWARD: I think you used the word objection.

Mr. ROBICHAUD: You can use the word objection if you want to.

Mr. HOWARD: Just a minute; you used the word objection.

Mr. ROBICHAUD: I said that Japan may have objected—this is the expression I used—to certain actions being taken by Canada in relation to Bill No. S-17. The fact is that Japan made representations, and we informed them of our intention to proceed with certain action in connection with Bill No. S-17.

Mr. HOWARD: That is the end of it?

Mr. ROBICHAUD: That is the end of it.

Mr. HOWARD: Japan has not raised any counter-objection or argument?

Mr. ROBICHAUD: Not to my knowledge.

Mr. HOWARD: Other than to disagree as they did initially.

Mr. ROBICHAUD: Not to my knowledge.

Mr. HOWARD: Have there been any other European countries, other than those mentioned, which have made some representations to the Canadian government?

Mr. ROBICHAUD: No. We have given a full list of countries which have made representations.

Mr. HOWARD: Did you list Japan before?

Mr. ROBICHAUD: No.

Mr. HOWARD: So Japan makes it a full list?

Mr. ROBICHAUD: That is right. We did not list Japan before, to my knowledge.

Mr. HOWARD: There are no other countries, outside the ones you have mentioned, plus Japan, which have made any representations in any way to the Canadian government in respect of the proposal inherent in Bill No. S-17?

Mr. ROBICHAUD: The answer is no.

Mr. STEWART: Mr. Chairman, am I free to direct my questions where I will?

The CHAIRMAN: I think so.

Mr. STEWART: Perhaps this question more appropriately is directed to Mr. Wershof. As I understand it, clause 4 of the bill will become effective almost immediately after passage. What will be the status of the gulf of St. Lawrence after the enactment of the bill and the proclamation?

Mr. WERSHOF: Mr. Chairman, if clause 4, or indeed the whole bill, were proclaimed in force shortly after enactment, in the period between it being proclaimed in force and the promulgation of straight baselines by the governor in council pursuant to the bill—I believe it is during that period—or until the governor in council proclaims our straight baselines, for example, as has been discussed here, which enclose the gulf, I would say that the status of the gulf would be exactly as it is today. I think there could be quite a lot of legal discussion with regard to what is the status of the gulf today, but whatever that is it seems to me it will continue to be that until the governor in council in promulgating straight lines pursuant to the bill altered the legal situation of the gulf.

Mr. STEWART: Am I to understand that the status of the gulf of St. Lawrence will be affected not so much legally but partly by the drawing of the straight baselines only in that those baselines are essential in defining the area of Canada's inland water in the gulf. Have I made my question clear?

Mr. WERSHOF: Not entirely.

Mr. STEWART: Let me try again. Will the effect of drawing straight baselines alter the legal status of the gulf of St. Lawrence, or does it merely define in a geographical way that portion of the estuary of the St. Lawrence which is regarded as inland water of Canada?



Mr. WERSHOF: Well, Mr. Chairman, as a civil servant, obviously until the government promulgates and makes such straight baselines, I cannot prophesy what they will be. I think many members of the committee have indicated or assumed that one of the things the government will do will be to use this bill to enclose by straight baselines the gulf of St. Lawrence. That would be a definite legal action, and once the order in council was made, then, under Canadian law, the gulf of St. Lawrence would be internal water of Canada. Under Canadian law there would be no doubt about that, and presumably the government will hope that this position under Canadian law will be accepted or acknowledged by other countries.

Regarding what it is at the present time, Mr. St. Laurent, when he was Prime Minister, made a statement in the House of Commons in 1949, when Newfoundland became part of Canada, which has been repeated and quoted with approval by succeeding governments and ministers of Mr. Diefenbaker's government. What Mr. St. Laurent said in effect, and I think I can dig out his exact words, is that it was the hope of the Canadian government in due course to make the gulf of St. Lawrence internal waters of Canada. He may not have used the phrase "internal waters" as that is a technical one. He may have referred to them as "national waters of Canada". I am not aware of any official declaration by the Canadian government, and there has been still less in the form of a legal act such as an order in council or proclamation, that the gulf of St. Lawrence is now today internal waters of Canada.

What Mr. St. Laurent did say has now been pointed out to me. He said that they intended—a word stronger than "hoped"—in due course to make the gulf of St. Lawrence national waters. That is to say, internal waters of Canada. There have been repetitions of that statement by ministers of succeeding governments but no legal action has been taken, to my knowledge, to make the gulf of St. Lawrence internal waters under Canadian law.

When this bill is passed and proclaimed in force, and I refer to clause 5, and if the government then issues an order in council drawing lines across the entrance to the gulf, and across the top of the strait of Belle Isle, under Canadian law there will be no doubt that from that moment forward the gulf of St. Lawrence is internal waters of Canada.

Mr. STEWART: I have one final question in respect of this point, Mr. Chairman. When this legal situation has been attained there will then be certain countries which may, depending I assume on the outcome of negotiations, enjoy certain privileges within this body of water based on historic and treaty rights. Is that roughly an accurate statement of what will be the legal situation?

Mr. WERSHOF: I think both my minister and Mr. Robichaud have from time to time indicated that in respect of the United States and France there will be one kind of regime. They will be allowed to go on fishing as they have been fishing. I believe that was the gist of what the two ministers said. However, in respect of other countries who claim to have so called historic rights, and as a lawyer I must attach that phrase "so called", because some countries certainly claim to have historic rights to fish in the gulf of St. Lawrence and in some other places that might be enclosed by baselines, the ministers have indicated, pursuant to the sense of what the Prime Minister said in June, 1963, that the expectation is for negotiations to reach a point at which time there will be an understanding with them that in fact they can be phased out. For a certain period of years their fishermen will continue to fish in the areas and for the stocks of fish for which they have been fishing. I think it can be inferred from the statements of the ministers that that is the hope and the expectation of what will come out of the negotiations with those countries.

Mr. STEWART: Thank you, Mr. Chairman.

Mr. BASFORD: Mr. Chairman, it has been indicated under section 2 (2) of the North Pacific agreement that the operation of that agreement would not cover any waters included as territorial waters or fishing zones by this bill. I was wondering what the situation is in respect of the international halibut commission.

Dr. NEEDLER: Mr. Chairman, I think the Halibut Treaty, and the convention on which the international North Pacific Fisheries Treaty is based, excepts territorial waters. I am sorry, the situation is different in respect of the halibut treaty which defines convention waters as meaning the territorial waters and high seas off the western coast of Canada and the United States of America. However, the fishing vessels of the United States are, of course, prohibited from fishing in Canadian territorial waters unless they are given specific permission. Does that answer your question?

Mr. BASFORD: Mr. Miller this morning, as I understood him, said that United States vessels had treaty rights in respect of our western coast by reason of the international halibut commission convention. If a convention excludes their vessels from our territorial waters how do they establish treaty rights?

Dr. NEEDLER: Perhaps I could ask Mr. Ozere to answer this question.

Mr. S. V. OZERE (*Assistant Deputy Minister of Fisheries*): Mr. Chairman, the United States has no treaty rights in the sense of having a right to fish inside our territorial waters. I think Mr. Miller referred to the halibut treaty between Canada and the United States which is a straight conservation treaty and does not allocate areas between fishermen. There is no division of catch. Each country operates within its own waters. Most of this fishery is located outside the present limits of territorial waters both in respect of Canada and the United States. Some fishing is done in United States territorial waters by United States vessels and in Canadian territorial water by Canadian vessels, but there are no treaty rights in the same sense as the treaty rights of the United States in respect of the east coast where it has a permanent right to fish inside territorial waters.

Mr. BASFORD: So that I am clear in my own mind, if we eventually establish baselines, including Dixon entrance and Queen Charlotte sound, what effect will this have on the international halibut fishery?

Mr. OZERE: If the United States is permitted to continue to fish in these areas it will have no effect. There are no other nations which have been fishing for halibut in those particular areas.

Mr. BASFORD: Referring again to the statement made by the minister a few moments ago, I should like to ask the minister the same question I asked Mr. Miller. Is there any reason for delay in declaring, under clause 5, a baseline from the international boundary to Triangle island and from cape St. James to Langara island?

Mr. ROBICHAUD: In reply to that particular question, Mr. Chairman, I think I might say that I agree with what Mr. Miller said a while ago. In the statement, which was prepared for the Secretary of State for External Affairs, I also made mention of this fact, that following the proclamation in respect of some co-ordinates establishing definite lines in certain areas. I also mentioned in my statement that there could be several lists of such co-ordinates produced as a result of orders in council.

Mr. BASFORD: Could the two baselines to which I referred be included in the first list?



Mr. ROBICHAUD: They probably could be but I cannot say at this moment that they will be. I cannot speak for the government but it is logical to assume that they could be established without undue delay.

Mr. BASFORD: There is no reason why they could not be established in the first list? I can appreciate that there is administrative delay in establishing the first list, and I agree with you in that regard.

Mr. ROBICHAUD: As I have said, Mr. Chairman, I cannot state definitely now what co-ordinates will be included in the first list but, personally, I see very few objections to including that particular area.

Mr. MACLEAN (*Queens*): Mr. Chairman, my first question is to Mr. Wershof. I think he said—and this would be my own opinion—that the proclamation of section 4 of the bill will not exclude any foreign fishing vessels from fishing in the gulf of St. Lawrence until such time as co-ordinates are established by order in council.

Mr. WERSHOF: I did not quite say that. I am sorry; I did not mean to sound that way, but that was not what I was trying to convey. I will try to elucidate.

Mr. MACLEAN (*Queens*): Perhaps I could put my question again. Am I correct in assuming that since Cabot strait is far more than 24 miles wide that the proclamation of the 12 mile exclusive fishing zone based on the present baseline will not exclude countries from fishing in the gulf of St. Lawrence unless they are presently excluded.

Mr. WERSHOF: I think that is correct. As a lawyer, I would think if and when the government wants to make the gulf of St. Lawrence national waters they will do so by promulgating appropriate baselines under clause 5 of the bill and not rely on the fact that the fishing zone has come into existence under clause 4.

Mr. MACLEAN (*Queens*): I have a question for Mr. Ozere, which I threw out earlier at one of the previous sittings.

What arrangements are being made in respect of the jurisdiction of provincial courts when this act is proclaimed. For example, suppose a foreign fishing vessel, or even a Canadian one, is apprehended in Cabot strait, what court will the Captain appear before? Will he be taken to Newfoundland, Nova Scotia, or where?

Mr. OZERE: Mr. Chairman, both the Fisheries Act and the Coastal Fisheries Protection Act provide that all courts of justice in Canada shall have the same jurisdiction in respect of offences under this act as under section 689 and section 692 of the Canada Shipping Act. Section 689 of the Canada Shipping Act states:

For the purpose of giving jurisdiction under this act, every offence shall be deemed to have been committed and every cause of complaint to have arisen either in the place in which the same actually was committed or arose, or in any place in which the offender or person complained against may be.

Then, it goes on to say:

Where any district within which any court, justice of the peace, or other magistrate has jurisdiction either under this act, or under any other act or at commonlaw, for any purpose whatever, is situate on the coast of any sea, or abutting on or projecting into any bay, channel, lake, river, or other navigable water, every such court, justice, or magistrate has jurisdiction over any vessel being on, or lying or passing off, that coast, or being in or near that bay, channel, lake, river or

navigable water, and over all persons on board that vessel or for the time being belonging thereto, in the same manner as if the vessel or persons were within the limits of the original jurisdiction of the court, justice or magistrate.

So you take it before the nearest magistrate.

Mr. MACLEAN (*Queens*): So, in effect, the jurisdiction of these provincial courts, for example, in the case of the gulf of St. Lawrence, will overlap and they will all apply?

Mr. OZERE: Yes.

Mr. ROBICHAUD: It is not a problem.

Mr. MACLEAN (*Queens*): Would Mr. Wershof or someone else for the benefit of the committee give us a very brief outline of the obligations of a country in respect of its territorial and national waters for other than fishing. We have been talking about the fishing aspect all the time but, from the point of view of international law, for example, I believe foreign submarines when in national waters are required to proceed on the surface. Are the nations concerned in a position to enforce these requirements and things of this sort? If you could, I would like you briefly to indicate to us what the obligations are on a country in respect of its territorial waters.

Mr. WERSHOF: Well, I will try. There is a distinction, to begin with, between the rights and duties relating to internal waters and those usually called the territorial sea. May I mention that the phrase "territorial waters" is used by most writers to mean both of these together, and when they speak of territorial waters they usually mean the internal waters plus the territorial sea, whether it be three miles or some wider area of territorial sea.

Under customary international law they have certain rights in the territorial sea but not necessarily in internal waters. The main right actually is the right of innocent passage. The right of innocent passage clearly exists for merchant ships in time of peace through the territorial sea.

Now, in respect of one of the conventions that was drawn up at Geneva, the convention on the territorial sea and the continuous zone which, incidentally, Canada has not yet ratified, as the former minister knows, the governments of Canada since the time of signature in 1958 have deferred taking action to ratify these conventions. Nevertheless, I think it is regarded all over the world that what is embodied in these four conventions that were signed in Geneva in 1958 is pretty well accepted as international law.

After setting forth in article IV of that convention the principles upon which a country might draw straight baselines as distinct from the customary baselines that follow the sinuosities of the coast they said—and this is article V, paragraph 2, that where the establishment of a straight baseline in accordance with article IV has the effect of enclosing as internal waters areas which previously had been considered as part of the territorial sea or of the high seas that a right to innocent passage as provided in articles XIV to XXIII of this convention shall exist in these waters. So, this was something new. The convention said if a country is making new internal waters or a new territorial sea by drawing straight baselines that the right of innocent passage, which previously existed only in the territorial sea, should apply to these new enclosed water, whether they be enclosed as internal waters or whether they become part of the new territorial sea of the country.

Now, if the committee wishes, I can try to indicate briefly what are the rights of innocent passage referred to in the convention. However, it would take a few minutes. These are set out in articles XIV to XXIII.

Mr. BASFORD: I have one question. It is my understanding that for a vessel to enjoy innocent passage it would have to put away its fishing gear.



Mr. WERSHOF: Oh, yes. As the phrase suggests, it means passing through and not stopping to fish.

Mr. BASFORD: I am not referring to stopping to fish; it has to stow its gear away.

Mr. WERSHOF: Yes. I am looking to see whether the convention actually spells that out. I see that it does.

Mr. MACLEAN (*Queens*): In that connection, this will not apply to the exclusive fishing zone. To enforce our fishing laws in the exclusive fishing zone outside of our territorial waters we will have to catch them in the act.

Mr. WERSHOF: Yes. For the fishing zone which is not provided for in the convention, parliament in this bill, if passed, is declaring that Canada has the same jurisdiction in respect of fishing in the fishing zones as it has in the territorial sea.

The fishing zone does not become part of the territorial sea, it does not become part of the internal waters, and although Mr. Ozere and the representatives of the Department of Fisheries can explain it better than I, I think the situation is that in the fishing zone the Coastal Fisheries Protection Act will apply, and it prohibits the fishing by third countries unless the governor in council, pursuant to the Coast Fisheries Protection Act, has given permission for it. Therefore, if we can take a hypothetical case, if a fishing vessel of a country which has not been given any permission by the governor in council to fish in the fishing zone does so, it will be committing an offence under the Canadian law, and if it is caught, presumably the vessel is arrested, and as Mr. Ozere has explained, taken into the nearest port and someone lays a charge.

Mr. TUCKER: Mr. Chairman, when the bill comes into effect, the governor in council will then be authorized to draw a straight baseline, and this line will be drawn in accordance with international law. Is that correct?

Mr. WERSHOF: As far as the officials of this department are concerned I would say that the bill itself was not deliberately drafted so as to suggest any limitations on how the governor in council would draw the baselines. Mr. Martin has said on behalf of the government—and I think Mr. Robichaud also—that the baselines will be drawn pursuant to what the Canadian government deems to be pretty generally accepted by international law because, if I may offer a personal addition, if a country started to draw straight baselines that had no sensible bases in international law, at the very least they would not get very much recognition from other countries for those baselines. On top of that, there is the fact that one of the conventions at Geneva, which was, as I said, generally accepted as reflecting international law, the same one I mentioned, that is the convention on the territorial sea and contiguous zone, set forth in article IV the principles according to which a country may institute straight baselines instead of baselines according to the sinuosities of the coast. There is already in this convention a legal doctrine which I think is generally accepted all over the world on the manner in which a country may set up straight baselines around its coast.

Mr. HOWARD: Could I follow that thought of Mr. Wershof a bit? I have read this through and I see that the convention on the territorial sea and the contiguous zone, like many legal documents, is pretty difficult to understand unless one is well versed in it, as I think Mr. Wershof is. You realize that I am extracting this paragraph out of it, and there may be other parts of the convention which would modify it to some extent, however, it says in paragraph 2 of article IV that the drawing of such baselines must not depart to any appreciable extent from the general direction of the coast, and the sea areas lying within the lines must be sufficiently closely linked to the land to be subject to the regime of internal waters. How does this apply to Queen Charlotte sound, Hecate straits and the Dixon entrance?



Mr. WERSHOF: I hope I will not be considered disrespectful but I do not think that as a civil servant I should endeavour at a public meeting to expound whatever legal opinions I may have ventured to give to Mr. Martin on such a question as the application of this paragraph to certain bodies of water, but if you will allow me I will add one more word which may be helpful. When it comes to what we call big bodies of water, such as the gulf of St. Lawrence, at least for many of them there are bases on which a Canadian government could claim that they are entitled to say that they are internal waters of Canada, bases in addition to the so-called straight base system. For instance, take as an example Hudson bay. The Canadian government has practically from the beginning said in various forms, including one very old order in council, that Hudson bay is internal waters of Canada. I think it is a matter of public record that the United States government has never expressly acknowledged that claim, but no other government in the world, to my knowledge, has ever disputed it or admitted it—they had no occasion to. When the Canadian government, many years ago, said that Hudson bay is internal waters of Canada, they were not doing so on the basis of the straight baseline system, but there are many other legal arguments in international law according to which the Canadian government can say—and in fact did say—that Hudson bay is internal waters of Canada. There are other arguments to be made relating to certain bodies of water. The argumentation is not necessarily limited to the doctrine set forth in paragraph 2 of article IV of the convention.

Mr. HOWARD: At the time that Canada did declare initially that Hudson bay would be internal waters of Canada, was the concept of the straight baseline in existence to any great extent in the world?

Mr. WERSHOF: I understand there have been one or two places in the world that had asserted straight baselines. I think in Norway the assertion of the straight baseline system goes back a long way in history, but it was not a doctrine that very many countries had asserted or talked about. I think it is fair to assume that when the Canadian government declared from the earliest times, and I think put it into one order in council 50 or 60 years ago if not longer, that Hudson bay is internal waters, they were not especially relying on the so-called straight baseline system. They had historic claims, such as the nature of the geography and the fact that Hudson bay is thoroughly surrounded by Canadian territory, and so on.

Mr. HOWARD: It was not my intention to attempt to pose questions to you which by your answer would violate your position within the public service. I appreciate that, and you may recall we raised this question right in the initial part of these hearings regarding the position of a person in the public service vis-à-vis his minister, and so on. I am therefore not trying to ask you to violate that position in any way at all. What I want to point out is that in this particular convention to which you made reference—the convention on the territorial sea and contiguous zone, which was developed out of the various conventions on the law of the sea—there are many references upon which one could base a question similar to the one I just asked you which is contained in paragraph 2 of article IV. There is the question of the establishment of lighthouses. You cannot draw baselines there unless lighthouses are installed. There is the question of the distance across the bays. If the distance across a bay is more than 24 miles, then the line, so says this convention, must be drawn within the bay in such a way that it shall not exceed 24 miles. There is the question of the application of this as it applies to islands, and as an example I can quote the Graham and Moresby islands of the Queen Charlottes. I want to get this point across. All of this leaves a number of unanswered questions. If this document, even though it is not classified, is generally accepted for establishing the geographical co-ordinates and the baselines, it leaves many unanswered questions, and so far we have not



found an answer to them. I gather that you are unable to tell us, and should not be able to tell us, what you have advised the minister from a legal point of view.

Mr. CROUSE: Mr. Chairman, I would like to pose this question to the minister or one of his officials.

On page 11 in the bill, section 31 is quoted. It states:

No one shall leave any port or place in Canada to fish outside Canadian fisheries waters for fish the catching of which is at such time prohibited in the Canadian fisheries waters opposite to or nearest the place where such person proposes to fish, and no one shall bring into Canada any fish caught outside Canadian fisheries waters when fishing for such fish is prohibited inside the Canadian fisheries waters opposite or nearest to the place where such fish was caught, or shall bring into Canada any vessels, boats, nets, fishing gear, implements or appliances used in such fishing.

This would appear to prohibit deep sea scallops from being landed at times when the inshore scallop fishing banks are closed. We will have new scallop fishing grounds on the east coast when these baselines are drawn. There are new fishing banks in the St. Mary's bay area, for example, and in the bay of Fundy, but these banks are closed at certain times of the year. I am wondering why this particular clause was put in the bill in this manner. It would seem to me to prohibit the landing of deep sea scallops at certain times of the year when the inshore areas are closed. I wonder if the minister or one of his officials could explain this?

Mr. ROBICHAUD: Mr. Ozere will explain that.

Mr. OZERE: Mr. Chairman, this is one of consequential amendments in the bill of a section which now appears in the Fisheries Act and which has been there for a long time—at least since 1932. The only change is that wherever the term “territorial waters of Canada” is mentioned at the present time in the section, the term “fisheries waters in Canada” will be substituted.

Mr. CROUSE: Is this not somewhat contradictory? For example, would we be permitted also to land lobsters that we could catch on George's bank, which is approximately 100 miles off the coast of Nova Scotia?

My question is: Would we be permitted to fish these lobsters on a year round basis and land them in the ports of Nova Scotia, even though lobsters are classed as out of season at certain periods of the year in Nova Scotian ports?

Mr. OZERE: I think this refers to migratory species of fish. For example, if you had a prohibition and were not allowed to fish halibut in a certain area in the territorial waters, then you would not be permitted to fish them outside the territorial waters.

Mr. CROUSE: My question still has not been answered. Would we be permitted to go on George's bank on a 12 month basis and catch lobsters which are being caught there by fishermen from the United States in large quantities and land these lobsters, let us say, in my home port of Lunenburg, even though in the month of June the lobster season—and the minister can correct me if I am wrong—in Lunenburg is closed?

Mr. NEEDLER: The application of this section, I think, would prevent the landing of lobsters in areas where lobster fishing is closed.

Mr. CROUSE: Would it not also prevent the landing of scallops, which is now one of Canada's largest deep sea fishing operations?

Mr. NEEDLER: I do not think the landing of scallops is prohibited at the moment.

Mr. CROUSE: Why would the landing of lobster be permitted while the landing of scallops is not?

Mr. NEEDLER: The prohibition against landing of lobsters is for conservation purposes; it is to conserve those inshore stocks.

Mr. CROUSE: But I am speaking of deep sea catching of lobsters, and there is no conservation measure being taken on the George's bank area at the present time. All other nations are catching these lobsters, and I am questioning the validity of an act which prohibits any operator in the deep sea fishing industry from going to the same bank.

Mr. NEEDLER: I think the purpose of this act was to make it possible to enforce such regulations as the halibut regulations on the Pacific coast, and I would think if there is any intention of developing lobster fishing—offshore lobster fishing—in Canada we should attempt to make some adjustment to make this possible.

Mr. CROUSE: Then, Mr. Chairman, what is being said is that this act is really not specific enough to cover all the types of fishing and in the event that any one of us in this room, or any deep sea operator, tomorrow decided to outfit a ship and start catching deep sea lobsters it would be necessary for this particular section to be amended?

Mr. NEEDLER: I do not mean necessarily that the act would have to be amended but the regulations have to be amended.

Mr. CROUSE: To the best of the knowledge of the minister and the officials would there be any objection to amending the regulations in the event that any operator decided to land deep sea lobsters in Nova Scotia, for example?

Mr. ROBICHAUD: This would be a matter of policy for the government of the day to decide. What we are referring now is the Fisheries Act. This is a provision under the Fisheries Act which is being amended in order to comply with Bill No. S-17 respecting the territorial sea and fishing zones of Canada.

As Dr. Needler has stated, if such a condition or situation would offer, and certain individuals or fishermen operating on the offshore banks would want to fish lobsters and bring them in, then the government has the authority and the right to amend the regulations to permit or to allow such fishery. The situation does not exist now because there has been no attempt to do that type of fishing.

Mr. CROUSE: Mr. Chairman, I submit at the present time that the constant overfishing from all the other nations, which is the original reason for bringing in this conservation measure, is a question that should be given careful consideration by the minister. He stated it would be government policy, but to me it would seem as though any man should have the right to build and equip a deep sea lobster fishing ship if he so desires. This should be his right because he would be catching these lobsters on the high seas. He would be catching them approximately 100 miles from the shore. He would be operating only in competition with other nations—Russia, the United States and other countries who are now catching these lobsters and landing them in their own countries. I wonder whether this is not something that should be clarified so that those of us in the fishing industry are free to know that we can proceed with this type of operation if we so desire.

Mr. ROBICHAUD: Again, I want to emphasize what I have tried to explain before. This aspect of this particular fishery has nothing to do directly with bill No. S-17. It is an operation on the high seas, an operation which, Mr. Crouse claims, is being carried on now by some other nations. We know that lobsters are not migrating as some of other varieties of fish do. We know that the protection of lobsters, say, on the Grand Banks would have no effect on the protection of lobsters along our shore in areas where lobster fishing is now being carried on.



It will not prevent the passing of this bill, and it will not prevent the government from making further amendments, if necessary, to the fisheries regulations. This would apply directly to the Fisheries Act, but not to Bill No. S-17. Such an operation would not have any effect on the implementation of Bill No. S-17.

Mr. CROUSE: The deputy minister of fisheries stated a moment ago that it would apply to any deep sea lobster operation, that is, section 31 of the bill as presently worded. I fail to see the difference between landing deep sea lobsters by a ship fully equipped to land them, and the landing of deep sea scallops by a ship equipped with fishing gear or appliances used in such fishing. I fail to see the difference. If the minister and his staff think it valid to put clause 31 in the bill, and if their belief is that now, as worded, it does apply to scallops, then I submit that it should be changed so that it does not affect the scallop and lobster industry.

Mr. ROBICHAUD: If the hon. member would read section 31 as it reads before the passing of this bill, he will note that it has no application to the matter he is raising. Section 31 exists in the Fisheries Act, and it reads as follows:

31. No one shall leave any port or place in Canada to fish outside Canadian fisheries waters for fish the catching of which is at such time prohibited in the Canadian fisheries waters opposite to or nearest the place where such person proposes to fish,...

I could carry on, but if you compare the two, the only reason for bringing this amendment in section 31 is to assure that the present Fisheries Act complies with Bill No. S-17, but it does not affect the type of fishing that the hon. member has mentioned.

Mr. CROUSE: Is the catching of scallops not now prohibited at certain times of the year along the coast of Nova Scotia?

Mr. NEEDLER: In special parts of the coast, yes.

Mr. CROUSE: That is the point I was making. This clause 31 would prohibit, during those periods when the inshore banks are closed, the landing of offshore lobster or scallops if the fishermen so desired.

Mr. OZERE: I think we are talking about two different things. There is the possibility—and I think Mr. Crouse may have a point—that this section should be amended in order to take care of the situation to which he refers. But it would be a matter for consideration and for the minister to decide, whether as a matter of policy it should be amended. We are now considering only a very small amendment substituting the words “territorial waters” by the words “fishery waters”. These are only consequential amendments as they are in any other act that is mentioned.

Mr. CROUSE: I fully realize that that is correct, but we can only be governed by the statute or by the law, and I think the law should be revised or amended so that it does not at any time exclude a deep sea operator from scallop or lobster fishing.

Mr. ROBICHAUD: I think this goes back to the first point I raised. There may be reasons to amend the Fisheries Act. There may be a reason to amend section 31, I think the point is well taken. But as I said before, this does not affect the present Bill No. S-17. There may be a reason and a very serious one to amend section 31 of the Fisheries Act to take care of provisions such as the one mentioned by Mr. Crouse. I think the government—and I am sure I can speak in its name—would be prepared to do this if such a need occurred. But I feel it does not affect the present bill. I agree with Mr. Crouse that the government should take into consideration amending section 31 of the Fisheries Act if there is such a need.

Mr. MACLEAN: I think Mr. Crouse's point is that since this section of the Fisheries Act is being amended by improvements to this bill, would it not be much simpler to take any other necessary amendments to it at the same time, because if that is not done you would have to bring in a special bill to amend the Fisheries Act at a later time. Perhaps you intend to do it any-way.

Mr. ROBICHAUD: The reason for it not being done was so as not to open the Fisheries Act at this time. That is the only reason. I think your point is well taken, and I think it should be looked into with the possibility of revising or amending the Fisheries Act.

Mr. CROUSE: Thank you.

Mr. BASFORD: It has been a long time since I studied international law.

Mr. HOWARD: Before we proceed too far, I would remind you of the order which we gave ourselves to sit from ten to one, and it is now past one o'clock.

The CHAIRMAN: Well, if the questions are short and the committee approves, we might hear them. However, it is up to the committee to say.

Mr. BASFORD: Very well, I shall pass.

Mr. HOWARD: I just drew it to your attention.

Mr. TUCKER: I have a brief question of Mr. Wershof. Does Bill No. S-17 provide that all the areas enclosed by the proposed new straight baselines should be within the internal waters of Canada?

Mr. WERSHOF: They would be internal waters of Canada as set forth in paragraph (2) of clause 3 which says:

(2) The internal waters of Canada include any areas of the sea that are on the landward side of the baselines of the territorial sea of Canada.

Mr. TUCKER: Thank you.

The CHAIRMAN: Gentlemen, it is past our time for adjournment. I presume the committee will now wish to adjourn. I might add that there have been no requests received to hear any further witnesses. Might I respectfully suggest that we determine the time of the next meeting—unless it be the wish to recall the present witnesses this afternoon? No. Well, might I suggest that the time of the next meeting be left to the call of the Chair upon advice from the steering committee, and that we try to hold a meeting of the steering committee at some time today.

Mr. STEWART: May we not clarify one question? Are any of the members who are here now anxious to ask questions of the present witnesses? Might we have an answer to that question? I know that Mr. Barnett has some questions he wishes to ask the Secretary of State for External Affairs, but I think we should register this fact so that it would have a liberating effect on the steering committee.

The CHAIRMAN: No.

Mr. TUCKER: It is finished.

Mr. BASFORD: I take it that the steering committee would consider that only one member of the committee has any further questions, and that is Mr. Barnett, who has a few questions to ask the Secretary of State for External Affairs.

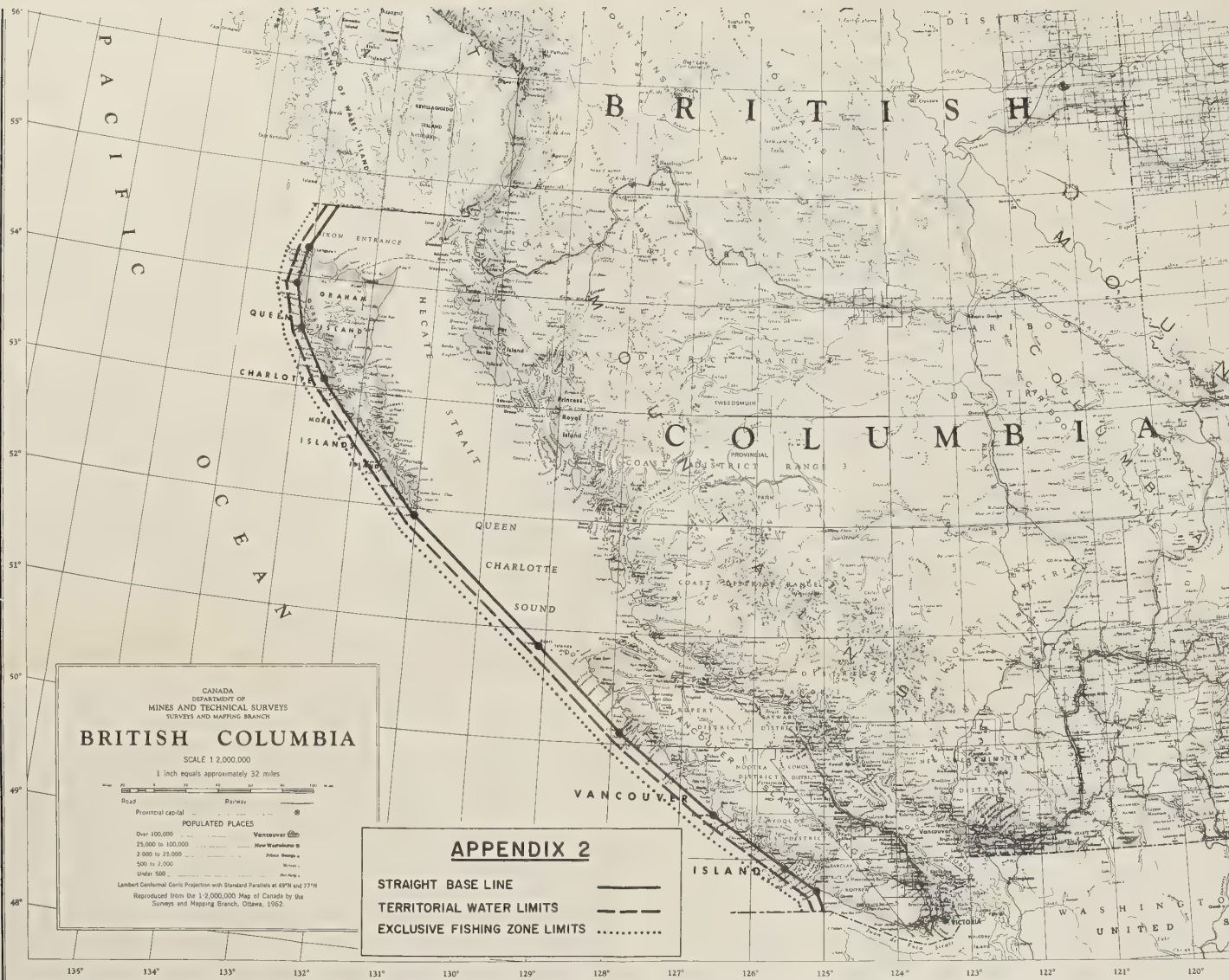


APPENDIX "A"













APPENDIX "B"





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HOUSE OF COMMONS

Second Session—Twenty-sixth Parliament

1964

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STANDING COMMITTEE ON  
**MARINE AND FISHERIES**

*Chairman:* Mr. C. R. GRANGER

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MINUTES OF PROCEEDINGS AND EVIDENCE

No. 5

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GOVT PUBNS

TUESDAY, JUNE 30, 1964

THURSDAY, JULY 2, 1964

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Respecting

BILL S-17. AN ACT RESPECTING THE TERRITORIAL  
SEA AND FISHING ZONES OF CANADA

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WITNESSES:

The Honourable P. Martin, Secretary of State for External Affairs. The Honourable H. Robichaud, Minister of Fisheries; and from the *Department of Fisheries*: Mr. S. V. Ozere; from the *Department of External Affairs*: Mr. M. H. Wershof; from the *Department of Justice*: Mr. J. D. Affleck; from the *Department of Transport*: Mr. R. R. Macgillivray; from the *Department of National Revenue*: Mr. J. W. Langford and Mr. G. D. McIntyre.

ROGER DUHAMEL, F.R.S.C.  
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1964



## STANDING COMMITTEE ON MARINE AND FISHERIES

*Chairman:* Mr. C. R. Granger

*Vice-Chairman:* Mr. Alexandre Cyr

and Messrs.

Armstrong,	Crossman,	Mather,
Barnett,	Crouse,	McLean ( <i>Charlotte</i> ),
Basford,	Danforth,	Mullally,
Bécharde,	Dionne,	Noble,
Bélanger,	Dubé,	Patterson,
Bigg,	Godin,	Pugh,
Blouin,	Groos,	Rhéaume,
Cadieu ( <i>Meadow Lake</i> ),	Howard,	Stefanson,
Cashin,	Leduc,	Stewart,
Chatterton,	MacLean ( <i>Queens</i> ),	Tucker,
Coates,	Macquarrie,	Whelan—35.

(Quorum 10)

M. Roussin,  
*Clerk of the Committee.*

M. Webster replaced M. Howard on June 30, 1964

### Corrigendum:

*Issue No. 4*, page 177, line 16 “employees’ organization” should read “employers’ organization”.

ORDER OF REFERENCE

TUESDAY, June 30, 1964.

*Ordered*,—That the name of Mr. Webster be substituted for that of Mr. Howard on the Standing Committee on Marine and Fisheries.

Attest.

LEON-J. RAYMOND,  
*The Clerk of the House.*



## REPORT TO THE HOUSE

FRIDAY, July 3, 1964.

The Standing Committee on Marine and Fisheries has the honour to present the following as its

### THIRD REPORT

Your Committee has considered Bill S-17, An Act respecting the Territorial Sea and Fishing Zones of Canada, and has agreed to report it without amendment.

A copy of the Minutes of Proceedings and Evidence relating to this Bill (*Issues Nos. 1 to 5*), is appended.

Respectfully submitted,

C. R. GRANGER,  
*Chairman.*

## MINUTES OF PROCEEDINGS

TUESDAY, June 30, 1964.  
(9)

The Standing Committee on Marine and Fisheries met at 9:40 a.m. this day. Mr. C. R. Granger, Chairman, presided.

*Members present:* Messrs. Barnett, Basford, Béchard, Bélanger, Cashin, Crossman, Cyr, Danforth, Dubé, Godin, Granger, Howard, MacLean (*Queens*), McLean (*Charlotte*), Mullally, Patterson, Pugh Tucker and Whelan. (19).

*In attendance:* The Honourable Paul Martin, Secretary of State for External Affairs.

*Also in attendance:* The Honourable H. Robichaud, Minister of Fisheries; Mr. S. V. Ozere, Assistant Deputy Minister of Fisheries; Mr. M. H. Wershof, Legal Adviser, Assistant Under Secretary of State for External Affairs; Mr. J. D. Affleck, Assistant Deputy Minister of Justice; Mr. R. R. Macgillivray, Assistant Counsel, Department of Transport; and Mr. G. D. McIntyre, Solicitor, Law Branch, Department of National Revenue.

The Chairman read the Fourth Report of the Subcommittee on Agenda and Procedure:

The Subcommittee on Agenda and Procedure of the Standing Committee on Marine and Fisheries met on the 23rd June. Messrs. Basford, Granger, MacLean, Patterson and Cyr attended.

The Subcommittee makes the following recommendations:

On motion of Mr. Basford, seconded by Mr. Patterson,

*Resolved*,—That the Committee meet on Tuesday, 30th June at 9:30 a.m. to hear the Secretary of State for External Affairs and officials of the following Departments:

Justice

National Revenue

Transport,

and start the study of Bill S-17, Clause by Clause, in order to report to the House.

On motion of Mr. Cyr, seconded by Mr. Basford,

*Resolved*,—That if necessary the Committee meet on July 2nd at 9:30 a.m. to pursue the study of Bill S-17, Clause by Clause, and report to the House.

The Chairman informed the Subcommittee of a telegram received from the Native Brotherhood of B.C., informing the Committee of its full support to the submission of United Fishermen and Allied Workers Union.

No other communication has been received from associations or individuals expressing the desire to appear before the Committee in connection with Bill S-17.

On motion of Mr. Godin, seconded by Mr. MacLean (*Queens*), the Fourth Report was adopted.



Mr. Macgillivray was introduced by the Chairman and questioned by the Committee.

At 10:00 o'clock the Honourable Paul Martin was introduced to the Committee and examined at length.

During the meeting copies of the correspondence received from the following groups, was distributed to the Members:

Native Brotherhood of B.C., Vancouver  
 United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry, Vancouver  
 United Electrical Radio and Machine Workers of America, Toronto  
 Marine Workers' & Boilermakers' Industrial Union, Vancouver  
 Calgary Labour Council, Calgary

The witnesses in attendance answered questions asked by the Committee and at the conclusion of the examination.

On motion of Mr. Basford, seconded by Mr. MacLean (*Queens*), it was *Resolved*,—That the Committee adjourn until Thursday, July 2 at 9:30 a.m. and that the witnesses not be required to attend.

At 11:00 a.m. the Committee adjourned until Thursday July 2 at 9:30 a.m.

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THURSDAY, July 2, 1964.

(10)

The Standing Committee on Marine and Fisheries met at 9:40 a.m. this day. The Chairman, Mr. C. R. Granger, presided.

*Members present:* Messrs. Barnett, Basford, Bélanger, Cashin, Chatterton, Crouse, Cyr, Dubé, Granger, MacLean (*Queens*), Mather, McLean (*Charlotte*), Mullally, Noble, Stewart, Tucker, Webster and Whelan (18).

*In attendance:* From the Department of External Affairs: Mr. M. H. Wershof, Legal Adviser, Assistant Under Secretary of State; from the Department of Fisheries: Mr. S. V. Ozere, Assistant Deputy Minister; from the Department of Justice: Mr. J. D. Affleck, Assistant Deputy Minister; from the Department of Transport: Mr. R. R. Macgillivray, Assistant Counsel; from the Department of National Revenue: Mr. G. D. McIntyre, Solicitor, Law Branch.

At the opening of the meeting, Messrs. Wershof and Ozere gave the answers to questions asked at previous meetings.

The Chairman then called Clause 1 of Bill S-17.

Mr. Barnett, seconded by Mr. Mather, moved that this Committee report to the House as follows:

"Your Committee has studied Bill S-17, being an Act respecting the Territorial Sea and Fishing Zones of Canada, and in the course of that study has heard several witnesses in relation thereto, and accordingly recommends as follows:

(1) That the principle of a 12 mile Territorial Sea measured from straight baselines between given points be affirmed by the Parliament of Canada.

(2) That, in order to give statutory effect to the principle set out in number (1) in such a way as to preserve Canada's fisheries to the utmost, the said Bill S-17 be not proceeded with in its present form,

but that it be divided into two separate Bills, proceeded with at different times, the first stage being that the Territorial Sea of Canada comprise those areas of the sea having as their baselines or inner limits the present inner limits of the territorial sea and, as their outer limits, lines measured seaward and equidistant from such inner limits so that each point of the outer limit line of the territorial sea is distant twelve nautical miles from the nearest point of the baseline and that this be drafted in bill form for enactment at this Session of Parliament, and the second stage being

That the provisions of Bill S-17 relating to lists of geographical co-ordinates of points from which baselines may be determined be not proceeded with until such time as the negotiations between Canada and other nations which claim so-called historic or treaty fishing rights, as referred to by the Secretary of State for External Affairs and the Minister of Fisheries, are concluded and the said geographical co-ordinates then able to be enacted by Parliament.

(3) In the negotiations with other nations which claim so-called historic or treaty fishing rights we urge upon the government the necessity of setting a time limit, not exceeding five years, after which those other nations will have their so-called fishing rights terminated."

Thereupon a debate arising, the question was put on the motion of Mr. Barnett, and it was resolved in the negative. Yeas : 3; Nays: 14.

Clause 1 was adopted.

*On Clause 2.*

Mr. Barnett, seconded by Mr. Mather, moved,—That Clause 2 be amended by adding immediately thereafter the following paragraph:

*"Repeal and Transitional.*

On the 1st day of January, 1967, section 2 of this Act is repealed and the following substituted therefor:

2. Every provision of this Act extends and applies to every Act of the Parliament of Canada, now or hereafter passed, and to every order, rule or regulation thereunder."

A debate arising, the question was put on the motion of Mr. Barnett and it was resolved in the negative. Yeas: 3; Nays: 13.

Clause 2 was adopted.

*On Clause 3.*

Mr. Barnett, seconded by Mr. Mather, moved,—That Clause 3 be amended by deleting the word "three" in line 20 thereof and substituting therefor the word "twelve".

And debate arising, the question was put on the motion of Mr. Barnett, and it was resolved in the negative. Yeas: 3; Nays: 12.

Clause 3 was adopted.

*On Clause 4.*

Mr. Barnett, seconded by Mr. Mather, moved,—That Sub-clause (2) of Clause 4 be amended by deleting, in line 12 thereof the words "Unless otherwise specified therein,

And debate arising, the question was put on the motion of Mr. Barnett and it was resolved in the negative. Yeas: 3; Nays: 12.

Clause 4 was adopted.



*On Clause 5.*

Mr. Barnett moved, seconded by Mr. Mather,—That Sub-clause (1) of Clause 5 be struck out and the following substituted therefor:

“(1) The geographical co-ordinates of points listed in the Schedule to this Act are hereby established as the geographical co-ordinates of points from which baselines shall be determined.”

And strike out subclause (2) of Clause 5 and substitute therefor the following:

“(2) Subject to any exceptions to the geographical co-ordinates of points so listed for the use of the low water line along the coast as the baseline between given points, baselines are straight lines joining the consecutive geographical co-ordinates of points so listed.”

And strike out subclause (3) of Clause 5 and substitute therefor the following:

“(3) In respect of any area not provided for in the Schedule, and until such time as geographical co-ordinates of points for such area baselines are determined, remain those applicable immediately before the coming into force of this section.”

And debate arising, the question was put on the motion of Mr. Barnett and it was resolved in the negative. Yeas: 3; Nays: 11.

Clause 5 was adopted.

Clauses 6 to 11 were severally adopted.

*On Clause 12.*

Mr. Crouse, seconded by Mr. MacLean (*Queens*), moved,—That Section 31 of the Fisheries Act be amended by adding the following words after the word “fishing” in line 29 on page 11 of the Bill:

“unless such deep sea fishing operation or ship is properly licensed by the federal government.”

And debate arising, the proposer and seconder, with the consent of the Committee, withdrew their motion.

Clause 12 was adopted.

Clause 13 was adopted.

The Chairman then called the Title of the Bill.

Mr. Mather, seconded by Mr. Barnett, moved,—That the list of co-ordinates prepared by Mr. Barnett be annexed to the Minutes and Proceedings of today's meeting.

A discussion arising, the question was put on Mr. Mather's motion and it was resolved in the negative as follows: Yeas: 4; Nays: 9.

The Title and the Bill were adopted.

*Agreed*,—That the Chairman Report Bill S-17, An Act respecting the Territorial Sea and Fishing Zones of Canada, to the House without amendment.

The Chairman thanked the Members of the Committee, the witnesses, and the members of the House of Commons staff who had assisted in the study of Bill S-17.

At 11:25 a.m. the Committee adjourned to the call of the Chair.

Marcel Roussin,  
*Clerk of the Committee.*

## EVIDENCE

TUESDAY, June 30, 1964.

The CHAIRMAN: Gentlemen, we have a quorum. First of all I would like to present the fourth report of the subcommittee on agenda and procedure. It reads as follows:

The subcommittee on agenda and procedure of the standing committee on marine and fisheries met on the 23rd day of June. Messrs. Granger, MacLean, Patterson and Cyr attended.

The subcommittee makes the following recommendations: On motion of Mr. Basford, seconded by Mr. Patterson,

Resolved,—That the committee meet on Tuesday, June 30 at 9.30 a.m. to hear the Secretary of State for External Affairs and officials of the following departments:

Justice

National Revenue

Transport,

and start the study of Bill No. S-17, clause by clause, in order to report to the house.

On motion of Mr. Cyr, seconded by Mr. Basford,

Resolved,—That if necessary the committee meet on July 2 at 9.30 a.m. to pursue the study of Bill No. S-17, clause by clause, and report to the house.

The Chairman informed the subcommittee of a telegram received from the Native Brotherhood of British Columbia, informing the committee of its full support to the submission of United Fisherman and Allied Workers Union.

No other communication has been received from associations or individuals expressing the desire to appear before the committee in connection with Bill No. S-17.

Since the meeting of the subcommittee there have been several letters received which have been mimeographed and distributed to the members of the committee. Is there a motion for the adoption of this report of the steering committee?

Mr. GODIN: I so move.

Mr. McLEAN (*Charlotte*): I second the motion.

The CHAIRMAN: It has been moved by Mr. Godin and seconded by Mr. McLean. Those in favour?

Motion agreed to.

We are glad to have with us this morning the Minister of Fisheries, and Mr. Ozere. Mr. Martin will be here at ten o'clock, so I am advised.

We have with us a member of the Department of External Affairs, Mr. Wershof, and a member of the Department of Justice, Mr. Affleck. From the Department of Transport we have with us Mr. Macgillivray, and from the Department of National Revenue we have Mr. Langford and Mr. McIntyre.

If it is agreeable to the committee perhaps we might start with the Department of Transport and ask Mr. Macgillivray if he would please take a seat at the head table.



Have you any statement to make, Mr. Macgillivray?

Mr. R. R. MACGILLIVRAY (*Assistant Counsel, Department of Transport*): No, Mr. Chairman, I have no statement to make except to say that the amendments proposed to the Aeronautics Act and the Canada Shipping Act in clauses 7 and 8 are purely consequential amendments. Where existing legislation has used such terms as "territorial waters," "within three miles of the coast of Canada," or "on or near the coast of Canada" and other expressions which have been deemed to mean or to be synonymous with "territorial waters", we are merely proposing here that the term territorial sea or territorial sea and internal waters be substituted so as to make it clear that the provisions of these Acts, which are presently expressed to apply as far as the limits of the territorial waters will, if the bill passes, be expressed to apply as far as the limits of the territorial sea. I do not think the effect of this will be felt by anyone. Most of the provisions are not of a sort that will bother either the air lines or the shipping interests, other than the fact that where baselines are drawn the effect of the provision is going to be felt a little further seaward than at the present time.

The CHAIRMAN: Now, Mr. MacLean.

Mr. MACLEAN (*Queens*): I have a couple of brief questions I would like to ask. There is a general catch-all clause, clause 2, which would have the effect, I would think, of amending, as it were, the Aeronautics Act and the Canada Shipping Act. These amendments that have been stated by the witness are no doubt more specific. But might I ask the reason for having this clause 2 as well as the other amendments? Perhaps in a more general sense, what acts will clause 2 apply to?

Mr. MACGILLIVRAY: Perhaps that question had better be directed to Mr. Affleck of the Department of Justice. My concern here is mainly with the consequential amendments.

Mr. MACLEAN (*Queens*): I realize that. Perhaps I might express my question in a different way. Since clause 2 is in the bill—I am not arguing at this point; I am just looking for clarification, why was it still felt or deemed wise to have an amendment to the Aeronautics and Canada Shipping Acts also?

Mr. MACGILLIVRAY: I would think there would be some confusion if the provisions in the Aeronautics Act and the Canada Shipping Act still referred to such things as three miles from the coast of Canada, or used the term territorial waters rather than the term territorial sea. There would be questions arising on whether there is a distinction between territorial waters and territorial seas. Certainly the advisers in the Department of Transport felt it would be wise to adopt the single uniform term which has been adopted in part one of this bill.

Mr. MACLEAN (*Queens*): I have one further question. In your opening statement you said that it was not intended that this bill would have the effect of putting any additional onus on international air lines and shipping companies. Did you base this on the statement of the Secretary of State for External Affairs when he said that it was not the intention to extend our territorial sea to include such areas as the corridor between Sable island and the mainland?

Mr. MACGILLIVRAY: I think it is true that if two baselines were drawn so as to enclose Sable island with the mainland, there is no question that this would have some impact on those commercial aircraft which fly over that area without touching Canada at the present time.

Mr. MACLEAN (*Queens*): But can you say categorically that the various air line companies and shipping companies will not be so affected?

Mr. MACGILLIVRAY: I think it can be said, sir. We have had no direct representations from any air lines or shipping companies or any other interests

apart from the representations that were made by Mr. Corlett before this committee, but there can be very little effect on an aircraft which is flying over the gulf of St. Lawrence, supposing it were enclosed, because it is going to fly over a part of Canada in any event, and I do not see that it can make much difference. It just means he is subject to our air traffic control procedure the whole time he passes over that area instead of only while he is over the land mass of Canada.

Mr. MACLEAN (*Queens*): It would be true in the case of the gulf of St. Lawrence, but of course there is an air line corridor, so to speak, between Sable island and the coast of Nova Scotia. A great many aircraft going into New York, for example, fly down there and do not pass over any of the territory of Canada and therefore would not be subject to the fee. This would therefore remain the case.

Mr. MACGILLIVRAY: Yes, sir.

Mr. BASFORD: Maybe my question has already been answered, I do not know. There were extensive amendments to the shipping act being made and passed by the Senate, and there were amendments there which required masters of certain fishing vessels to have certificates. I know the minister told the transportation committee that this would be amended and taken out. I have not had a chance to check that.

Mr. MACGILLIVRAY: That is a provision in Bill No. S-7. The provision was not deleted from the bill by the Senate but it was very much amended in such a way that I believe it is probably now acceptable to all interests.

Mr. BASFORD: What would the application of those limitations be in the fisheries zone, that is from three to 12 miles?

Mr. MACGILLIVRAY: The establishment of a fishing zone and of the straight baselines would have no impact on the application of those provisions of the Canada Shipping Act since they apply to vessels when leaving port and coming back to port, when going from a place in Canada—as it is expressed in the act. So that the extension, if that is what we are doing, of the territorial sea would have no effect on the application of that type of provision in our shipping act.

Mr. BARNETT: Mr. Chairman, I do not want to put any question; this is merely a matter of clarification. It is suggested that the idea of having a consequential amendment is to produce uniformity of language throughout. I am wondering why in the proposed amendments to the Canada Shipping Act the expression, "Canadian waters" is used throughout, whereas in the proposed amendment to the Aeronautics Act the longer expression is used "including territorial sea of Canada and waters on the landward side thereof". Is there any particular reason for that? In other words, why was not the same wording used with respect to the amendments to the Aeronautics Act as proposed in the Canada Shipping Act?

Mr. MACGILLIVRAY: I think it is probably just a matter of brevity, sir. If we had proposed a definition of Canadian waters for the Aeronautics Act, it would just have meant another subclause defining Canadian waters, and then inserting the term "Canadian waters" in these four places. I do not think there is any substantial difference in the way in which it is done.

Mr. MACLEAN (*Queens*): In that connection I was going to ask a question of a witness from the Department of Justice along the very same lines. In the amendments to the other acts there does not seem to be complete uniformity either. In the case of the shipping act the term "Canadian waters" is used while in the amendment to the Criminal Code the term "on the territorial sea of Canada or the internal waters between the territorial sea and the coast of Canada" is used. In the Customs Act the expression "all waters in the territorial sea of Canada and all internal waters of Canada" is used. There does not



seem to be a standard phraseology in the amending of these various acts. What I would like to know is whether this difference is necessary in order to give the proper meaning to the amendments or whether it is just a lack of standardization.

Mr. MACGILLIVRAY: I think I would prefer to have Mr. Affleck answer that question since I have no connection with the other portion of this.

The CHAIRMAN: It has occurred to me, gentlemen, that since these questions are interrelated it might be your wish to direct your questions to any official who is here. In this manner we might have greater co-ordination in the discussions. I would suggest that each member feel at liberty to direct his question where he would.

Mr. MACLEAN (*Queens*): Might I direct this question to Mr. Affleck?

Mr. J. D. AFFLECK (*Assistant Deputy Minister of Justice*): Would you like to go back to clause 2 of the bill and the reason for it?

Mr. MACLEAN (*Queens*): You might say a word about that and a word about the difference in the phraseology.

Mr. AFFLECK: Clause 2 is taken from the Interpretation Act. We lifted the language right out of the Interpretation Act. This is to apply if in the future federal statutes do use the expression "territorial sea"; at the moment none that I can think of do. I do not know of any which use the expression "territorial sea". Therefore, the consequential amendments were necessary in order to bring that phrase into the acts which now exist. In other words, where we use the expression "territorial sea" in here, and "fishing zones" in part I of this bill, from now on, if you have a statute which uses those expressions, it will have the same meaning it has in this bill. You do not have anything called a fishing zone in any existing act now, so it is necessary to put it in there where appropriate. Also, so far as I know, there is no statute which refers to territorial sea. There is the expression "inland waters", and others, but not that one.

I would not be prepared to completely deny there was perhaps some inconsistency in using those expressions, but most of these phrases are quite deliberate. In the case of the Canada Shipping Act, we are amending a great many sections as you can see. The Canada Shipping Act now contains quite a number of definitions one of which defines inland waters. You may notice we avoided using the expression "inland waters". It has a very special meaning in the Canada Shipping Act. Also, there are various other shipping definitions in that act. Take the Canada Shipping Act as an illustration. We have inserted a new definition, as follows:

"Canadian waters" means the territorial sea of Canada and all internal waters of Canada;

In other words, all territorial waters, wherever we are substituting the term "Canadian waters" for various expressions now in the Canada Shipping Act.

Mr. BARNETT: In this expression, and in view of the fact that you mentioned the term "inland waters" had a specific meaning in the Canada Shipping Act, "all internal waters" includes inland waters?

Mr. AFFLECK: Yes; this would include anything other than the territorial sea, really.

In respect of the Criminal Code, we thought quite a bit about this one, because there is this difference as you pointed out, Mr. MacLean. When you look at the existing section of the Criminal Code, the terms change. On the opposite page in the explanatory note, it states:

—on a part of the sea adjacent to the coast of Canada, and within three nautical miles of ordinary low water mark—



We feel that provision was not intended to cover any waters anywhere in Canada; but that it covered offences in what we commonly call the territorial sea, or the waters between the shore and whatever is the outer limit. Therefore, we have used a different technique for that reason. We say:

—the territorial sea of Canada or on internal waters between the territorial sea and the coast of Canada—

Not all internal waters. We have used this technique because we felt these sections as they now exist have different scopes, or meanings.

Mr. MACLEAN (*Queens*): The expression “internal waters between the territorial sea and the coast of Canada” means only these?

Mr. AFFLECK: Yes.

Mr. MACLEAN (*Queens*): Internal waters generally include inland waters.

Mr. AFFLECK: Yes, it includes Meach lake and the Ottawa river—any waters at all.

Mr. MACLEAN (*Queens*): You intentionally make a distinction here?

Mr. AFFLECK: Yes; we are intentionally cutting down the scope in the Criminal Code because we think it matches the scope already there.

In the case of the Coastal Fisheries Protection Act, there is a different approach, because in that act you will be including fishing zones. You will not be touching fishing zones in the Canada Shipping Act or in the Aeronautics Act. However, in both the Fisheries Act and the Coastal Fisheries Protection Act, in the waters, you want to include fishing zones. That is the reason for using different techniques in the various amendments.

Mr. MACLEAN (*Queens*): In the Customs Act, the expression “all waters in the territorial sea of Canada and all internal waters of Canada” applies to the gulf of St. Lawrence, the Ottawa river, or anywhere?

Mr. AFFLECK: Yes.

Mr. PUGH: Is there a common usage of the term “territorial waters” among all nations?

Mr. AFFLECK: No, I do not think there is. Perhaps the external affairs people could tell you that. I think internationally it usually means the territorial sea, just the coastal belt of sea. But the phrase is used slightly differently in various contexts. Sometimes it means all waters belonging to a particular country, internally and the sea. Sometimes it is just the territorial sea. So I do not think there is consistent use or scope for the expression “territorial waters”.

Mr. PUGH: Has there been any attempt made among the nations to arrive at a common term?

Mr. AFFLECK: Might I pass that question to Mr. Wershof?

Mr. M. H. WERSHOF (*Legal Adviser, Assistant Under Secretary of State, Department of External Affairs*): Well, as Mr. Affleck has said, I am afraid this phrase “territorial waters”, especially, has had different meanings ascribed to it by different writers. But in the last few years I think the legal people in most countries now use the expression territorial sea to mean the band of water between—that is, outward from the baseline—the band of water that is claimed to be completely within the sovereignty of the coastal state, which, for most countries, is three miles, but for other countries more; waters landward of the baseline, but on the coast, not, for example, lake Winnipeg, but waters landward are called internal waters now by most of the writers.

As Mr. Affleck has said, there are some places in the consequential amendments where the draftsmen were not concerned with waters truly inland such as the Ottawa river, Meach lake, or lake Winnipeg. So in our drafting of recommendations to the ministers we have thought of internal waters as being



anything landward of the base line, that is the territorial sea, which the bill says will remain at three miles. As for the fishing zones, these are different from territorial seas or territorial waters because the jurisdiction claimed for fishing zones is of a different and limited kind.

Mr. PUGH: It would be our courts which would adjudicate any question which might arise under any of these acts as to the interpretation to be put on the words in the acts?

Mr. WERSHOF: Yes sir.

The CHAIRMAN: I wonder if at this stage I might suggest that we resume questioning Mr. Martin who has come in, while this discussion was going on. Perhaps I might now recognize Mr. Barnett, as I understand he has questions for the Secretary of State for External Affairs. We are happy to have Mr. Martin with us this morning.

Mr. BARNETT: Part of what I am interested in is of a factual nature, but there may be some questions of government policy involved. So I think perhaps at least some of my questions might be appropriately directed to the Secretary of State for External Affairs.

As you will recall, at the outset of our proceedings you placed before the committee a brief summary on paper, which we put into our proceedings, on the question of the law of the sea, this outlined the existing treaty situation as far as our fisheries are concerned. It is in connection with this matter and the treaties that I want to ask my questions.

I took the trouble to get from the library a volume which contains the United States treaties with other powers, with special reference to those with Great Britain. In looking through this volume it struck me that from the very outset in all the treaties between Great Britain and the United States, starting with the settlement of 1783 the whole of the matter related to fisheries had been tied in as a sort of package deal with the other provisions of the settlement that were arrived at. At one point earlier I did ask whether the original rights of Canadian fishermen in United States waters, which were set out first of all in the treaty of 1783, had been abrogated. I was informed that they had.

Now I notice that the original treaty provided among other things that his majesty's subjects in what is now Canada would forever have the right of free navigation on the Mississippi river from its source to its mouth. I would like to know officially whether or not that provision is still in existence, and if not, at what point and for what reason—I do not expect a full exposition of this—has it been abrogated.

Hon. Paul MARTIN (*Secretary of State for External Affairs*): You are talking about free navigation on the Mississippi?

Mr. BARNETT: Yes.

Mr. MARTIN (*Essex East*): I am not overly familiar with this, but I suspect that the reason is that our rights, under that treaty lapsed as a result of the war of 1812. I would want to check my answer carefully, but I think that is likely the reason.

Mr. BARNETT: That leads me to the question of navigation on another river. As I understand it in the treaty of 1846, which is often referred to as the Oregon Treaty, we were guaranteed the right of free navigation on the Columbia from the 49th parallel for all time. I wonder whether or not that treaty provision is still in effect.

Mr. MARTIN (*Essex East*): We will have to check it. Even Mr. Wershof feels that he will have to check it. Mr. Wershof will have it checked and give you a reply. I do not see how it affects our particular situation at the moment, and I would be interested to know how you think it does.

Mr. BARNETT: This is where the questions of policy, I think, begin to enter in. Leaving aside for the moment whether or not we still have navigational rights on the Columbia, I think probably the Secretary of State for External Affairs will recall that this matter has been referred to on various occasions in the house by the member for Kootenay West. He brought up the subject of navigation on the Columbia in connection with various matters having to do with the Columbia river.

Mr. MARTIN (*Essex East*): Yes, I remember.

Mr. BARNETT: What concerns me quite frankly is that first of all, as I think has been pointed out in discussion in the committee, all these existing treaties were negotiated on our behalf before we had any real say as to what was going to be agreed upon as between ourselves and the United States. Secondly, over the years it does seem to me that all the provisions or rights which we at one time held in respect of the United States, that is, the concessions that were made at the stage of the treaty settlements, have been abrogated and we have been left, as it were, holding the bag, with these archaic treaty provisions.

The big question in my mind is why—in entering upon these negotiations and approaching this question of establishing extensions of our fishing zones and our territorial seas—the government did not get agreement from the United States to wipe out these things.

Mr. MARTIN (*Essex East*): I would like you to clarify what you mean by “wipe out these things”.

Mr. BARNETT: I mean these special treaty rights as they apply to fishing in Canadians waters, to which the United States still holds a claim.

Mr. MARTIN (*Essex East*): I wish the question were that simple, but of course it is not. We will seek to establish straight baselines drawn between particular points. And involved in the discussion of these points will be the interpretation that will be placed upon the proprietary claims on certain bodies of water. This subject matter and the negotiation of these claims in turn will depend upon treaties and usage; and these will all be a part of the matter of questioning the archaic conditions, and the case law that has been built up.

Mr. BARNETT: The impression I got from reading the minister's statement to the Senate committee was that the government had no intention to ask for any abrogation of these rights or renegotiation of the existing treaty.

Mr. MARTIN (*Essex East*): We are talking about two different things. I thought that we were talking about proprietary claims to bodies of water. I thought that is what you were talking about, based upon treaties. Perhaps you would like to phrase your question so that I may clearly understand it. You are now asking me whether or not for instance in the case of the United States there is any abrogation of fishing rights. There is clearly not. We have clearly established that we propose to recognize the existence of the United States historic and treaty fishing rights, and we believe that it is in the national interest to do so.

Mr. BARNETT: There was another statement made, as I recall it, in recent years. The United States has made very little use of the provisions as stated in the treaty.

Mr. MARTIN (*Essex East*): Of what particular body of water are you speaking? Is it the gulf of St. Lawrence?

Mr. BARNETT: I am referring to areas along the coast of Newfoundland.

Mr. MARTIN (*Essex East*): In the gulf of St. Lawrence?

Mr. BARNETT: Yes, where these rights are specifically stated in the treaty. That is all I am concerned with; I mean the rights specifically set out in the treaty.



Mr. MARTIN (*Essex East*): We do not intend to interfere with any of these rights, whether they are rarely used or not. But you did make an observation a moment ago which I think is important, and that is that the extent of the catch is not as great as might seem to be the case.

Mr. BARNETT: What concerned me is: why our government has not said to the United States "well, after all, Canada is now an independent country. We are conducting our own affairs."

Mr. MARTIN (*Essex East*): That is right.

Mr. BARNETT: Obviously these archaic treaties were made at a time when we did not have control over our own affairs. They were made by people at a distance who were unfamiliar with the effect of what they had been giving away on our behalf. Why, acting as a good and friendly neighbour—this is what struck me when looking at the treaty—as a compensating provision in the package of the treaty as originally set out, do we not then wipe them out, as far as any rights they have are concerned or the balance of those rights in the United States? I used the example of navigation on the Mississippi because that is undoubtedly one which was considered to be important at the time that this treaty was drafted, not because I think we should press our claim now for navigation on the Mississippi river. I suggest that a preservation of these rather archaic treaty provisions as they affect our rights is equally absurd. This is what puzzles me. I wonder why those concerned in the negotiations have not even suggested to the United States that we wipe these things out? I find that difficult to understand.

Mr. MARTIN (*Essex East*): May I make a comment: you say you find it difficult. I can understand that when we believe it is in the national interest to pursue these historic, or these treaty fishing rights which the United States have over certain bodies of water. We believe that it is in the national Canadian interest. One of the indications of this would be the kind of concern that properly would be in the minds of Atlantic fishermen as to the consequences in the United States markets for Canadian fishermen if we were to take an unreasonable attitude; also because we respect as we should, historic and treaty rights in particular. There will be advantages to Canada in acknowledgment of the 12 mile fishing zone limit, and we hope a satisfactory reaction to the areas where we establish the straight baseline system. These are very important considerations in the Canadian mind. You yourself have mentioned of course, the limitation of the catch.

Mr. BARNETT: I could understand perhaps better the minister's line of argument if he had reported to us that the government had raised these questions with the United States.

Mr. MARTIN (*Essex East*): Raised what questions?

Mr. BARNETT: The question of writing off these things.

Mr. MARTIN (*Essex East*): We have never raised that question.

Mr. BARNETT: That merely confirms what I was suggesting.

Mr. MARTIN (*Essex East*): I think if we had done that, we would have acted in a way which would have seriously prejudiced our national interests.

Mr. BARNETT: I mean if it had been reported that the question had been raised, and the minister had reported to us that the United States was raising strong objection to the elimination of treaty rights.

Mr. MARTIN (*Essex East*): This never arose.

Mr. BARNETT: I can understand his argument about Canadians would have some basis; but in the absence even of pointing this out to the United States, it might even be that the United States might be willing to say "we are quite happy."

Mr. MARTIN (*Essex East*): We did know that they would never have agreed to it. We did know that. When Mr. Pearson, as Prime Minister of Canada, discussed our intentions with President Kennedy the latter clearly indicated considered concern about the historic treaty rights. Of course he need not have said it, because it was self-evident.

Mr. BARNETT: Perhaps there are other members of the committee who might wish to ask questions at this point. I hope that the minister on behalf of Canada has made it clear to the United States that there is a substantial body of opinion in Canada to which it is not self-evident. I say today that we would like to have the United States recognize us in fact as a grown up and friendly nation on their northern boundary.

Mr. MARTIN (*Essex East*): I find these very difficult lines even coming from a man like you, for whom I have the greatest respect.

What we are seeking to do represents fully the act of a sovereign power—  
there is no doubt about that. GOVT PUBNS

Mr. BARNETT: I would not quarrel with that.

Mr. MARTIN (*Essex East*): We are saying ourselves through our parliament that we wish to establish the 12 mile fishing zone on the basis of the straight baseline system. Through the former and through other governments we endeavoured to bring this thing about by a multi-national act; this having failed we are now affirming what we intend to do. I do not know of anything that is more demonstrative of our sovereign capacity than this. Having said this, we also at the same time say that we propose to recognize, as we should, the treaty rights of other countries in certain bodies of water. This is very germane because of the intended application of the straight baseline system by the declaring country, and if the United States were willing by itself to abandon its historic rights, of course no one would stand in the way of this, but this would be asking too much of a country, and we are asking a great deal of them in the negotiations that we are carrying on with them and with other countries. There is no doubt that the United States raised it and as soon as Prime Minister Pearson spoke about this question they said that they did not like the idea of our declaring the 12 mile fishing zone in this way. Certainly they were not anxious to see us disturb their fishing rights. This was an understandable reaction of the president.

The CHAIRMAN: Before anyone else asks questions, gentlemen, I should like to call your attention to the minutes of the last meeting on June 22. The following words appear in the last paragraph on page 207:

Mr. BASFORD: I take it that the steering committee would consider that only one member of the committee has any further questions, and that is Mr. Barnett, who has a few questions to ask the Secretary of State for External Affairs.

I think I should call the committee's attention to that.

Mr. MARTIN (*Essex East*): I have no objections to answering questions from any member of the committee.

The CHAIRMAN: I take it that if the committee wishes to broaden its discussions, it can be done with general agreement.

Mr. BARNETT: I have no wish to monopolize the time of the Secretary of State for External Affairs.

Mr. CYR: While we are on this point, Mr. Chairman, I wonder if the committee would agree to adjourn at 11 o'clock today because there are several caucuses meeting at that time. The house will be sitting at two o'clock this afternoon.



Mr. MACLEAN (*Queens*): I think that if we could finish hearing evidence from the witnesses who are here today and then adjourn at that time, provided it is before 11 o'clock, it would meet with general agreement because there are meetings to which many of us are required to go at 11 o'clock and we should not contemplate sitting beyond perhaps five minutes to 11 o'clock or so.

The CHAIRMAN: Does anyone else wish to express an opinion on this matter?

Mr. BASFORD: I am not sure Mr. MacLean made a motion. If he has, I would second it.

Mr. MACLEAN (*Queens*): I would put that in the form of a motion. I so move.

The CHAIRMAN:

It is moved by Mr. MacLean (*Queens*) and seconded by Mr. Basford that the committee adjourn as soon as it has finished questioning the witnesses, or at five minutes to eleven.

Are there any comments on this?

Motion agreed to.

With respect to the broadening of our discussion, may I assume that the committee would wish to open this discussion quite widely so as to allow anyone who wishes to ask questions to do so?

Mr. HOWARD: I want to deal with this matter very briefly. Even though Mr. Basford raised this point at the last meeting, I do not think that any committee has the right to deter the right of any member to ask any questions at a subsequent meeting. We should just proceed and if any member wants to ask questions of Mr. Martin or of other officials here we are at perfect liberty to do so regardless of what Mr. Basford raised at the last meeting.

Mr. BASFORD: My remarks were not meant to limit any questions; they were intended to guide the steering committee.

The CHAIRMAN: Thank you. What Mr. Howard and Mr. Basford have said is also my own interpretation of it. I thought that I should bring this to the attention of the committee as it was on the record. Having done so, and obtained an opinion which is I think unanimous, we will proceed with the questioning of Mr. Martin and other officials who are here.

Mr. PUGH: I have a follow-up question on what was said. You just finished stating, sir, that the United States has given up a great deal. Would they have given up anything at all if their historic rights were preserved?

Mr. MARTIN (*Essex East*): We are now entering into the realm of negotiation. I do not think I said they had given up a great deal.

Mr. PUGH: No, you said we have asked them to give up a great deal.

Mr. MARTIN (*Essex East*): I am sure that they would not have agreed to give up their historic fishing rights.

Mr. PUGH: So that whatever rights they had before will be preserved?

Mr. MARTIN (*Essex East*): That is right. We believe that it is in the national interest and we hope the outcome of our negotiations will reveal that that is the case.

Mr. BASFORD: I was wondering whether your department, Mr. Martin, has received any representations or protests from Great Britain, the Scandinavian countries or the United States on behalf of those countries' air lines?

Mr. MARTIN (*Essex East*): We have had representations made by Canadians about the effect of this, but none from any foreign countries. I think you had a witness here, Mr. Maclaren, speaking on this point. We think his case is an answerable one.

Mr. BARNETT: I did have a few questions in a somewhat different area. My question has to do with the claim of the United States fishermen to historic fishing rights in waters off the west coast of Canada where, I understand, any question of treaty does not enter into the picture directly. I am wondering whether the committee could receive in some detail the pattern setting out the period of time over which the United States has in fact fished in those waters, and whether there has been continuous fishing by the United States in such waters as the Hecate strait and Queen Charlotte sound?

Mr. MARTIN (*Essex East*): You might ask Mr. Ozere that question.

Mr. BARNETT: I have heard it suggested that there was a period when Canada did take some action, which was successful, to prevent the United States fishermen from fishing in those waters. I would like to receive a more definite picture than we have had in the committee up to now.

Mr. MARTIN (*Essex East*): Perhaps you could ask Mr. Ozere this question. You are referring to the Hecate strait, I understand. That is a question which should be asked of Mr. Ozere. He will want to bear in mind the nature of the negotiations where it applies.

Mr. HOWARD: I think there is no need to indicate that to Mr. Ozere; he is well aware of it.

Mr. MARTIN (*Essex East*): I know; I just want to make doubly sure.

Mr. BARNETT: I want to make it clear that my point is not to attempt to probe into the negotiations, but what I would like to have is a factual statement of what has actually happened and when, in respect of those fisheries.

The CHAIRMAN: Are there any further questions?

Mr. MACLEAN (*Queens*): I have one brief question. I realize that perhaps I am in a delicate area, and I am not trying to put the Secretary of State for External Affairs on the spot, although it would be difficult to do so, I think. I think that in reply to a question in the house, if I recall properly, either the Secretary of State or the Minister of Trade and Commerce said that the question of the possibility of the United States taking any retaliatory action in the way of duties or quotas on Canadian fish was not discussed.

Mr. MARTIN (*Essex East*): I am not sure I said that. I said I was satisfied that that would not take place. I think Mr. Crouse was the one who raised the question, and one of the considerations involved in the government's attitude with regard to the United States historic and treaty rights was that we would certainly not want to take any action that would encourage retaliatory action.

Mr. MACLEAN (*Queens*): Exactly. Has there been an assurance from the United States that they do not contemplate any such action?

Mr. MARTIN (*Essex East*): No.

Mr. MACLEAN (*Queens*): This would seem to me a little dangerous. Perhaps they are reserving their right to do this in the future.

Mr. MARTIN (*Essex East*): No one can tell what a government will do. That is something in the future. I am satisfied that in so far as the executive arm of the government of the United States is concerned, that that is not in the cards.

Mr. MACLEAN (*Queens*): I do not want to put words in your mouth, but are you reasonably satisfied that the United States government at this time has not at the back of its mind a reservation regarding the right to take some action along these lines in the future as a retaliation or compensation?

Mr. MARTIN (*Essex East*): That is my view.

Mr. BASFORD: We have established evidence in your statement and in Mr. Robichaud's statement that the government will probably be issuing a series



or a list of co-ordinates from time to time as they are established. I am wondering if there is any reason why the straight baseline and the geographic co-ordinate to go with it cannot be established in the first list of co-ordinates from the international boundary to the top of Vancouver island and from the southern tip of Queen Charlotte island to the northern tip of Queen Charlotte island?

Mr. MARTIN (*Essex East*): I would not want to say anything at this stage in public about where they will begin, but there will be no hesitation in making them available as quickly as it can be done.

Mr. BASFORD: Is there any reason for delay in establishing those two sections of baselines?

Mr. MARTIN (*Essex East*): I do not want to comment on that. I would not mind telling you or any individual member privately, but I would not want to comment on that publicly.

Mr. MACLEAN (*Queens*): As I understand it, when this bill is proclaimed its immediate effect will be to establish a fishing zone. I would like to ask the minister why the last section of the act says:

This act or any provision thereof shall come into force on a day or days to be fixed by proclamation of the governor in council.

Why would it not be considered advantageous for section 4, the section dealing with the exclusive fishing zone, to come into effect on royal assent?

Mr. MARTIN (*Essex East*): I assure you there will be no delay. Very soon after this act is passed, it will be proclaimed. You will recall that my colleague, the Minister of Fisheries, made a statement for me in this connection on June 22 when he said:

As the Secretary of State for External Affairs could not be present today, he asked me to make a few remarks in reply to questions raised on June 9, concerning the time when this bill will be proclaimed. A similar question was asked this morning by Mr. MacLean, as I have just stated.

As the Secretary of State for External Affairs has already indicated, section 4 of this bill establishing fishing zones of Canada, which we claim at this time is the most urgent part of the bill, will be proclaimed without delay. With regard to those countries with which we are now negotiating, Canadian laws will not be immediately applied, but countries which do now fish in our waters will not be able to come in.

As soon as section 4 is proclaimed this bill will have such an effect on other countries which are not now negotiating with Canada.

So far as the rest of the bill is concerned, including section 5 which enables the governor in council to draw straight baselines, it—that is to say, the bill—will be proclaimed in due course. The government does not expect any undue or substantial delays in proclaiming and thus bringing into force the rest of the bill.

Immediately on proclamation, the governor in council will be authorized to proclaim lists of points for specific baselines off our coasts, Mr. Martin already has said there may be several lists and the first baselines will be proclaimed for those areas where our discussions or negotiations are concluded.

The only reason for the proclamation is that orders in council have to be passed. It will be almost automatic.

Mr. MACLEAN (*Queens*): The lapse of time between royal assent and proclamation of this section 4 and so on will be very brief. Is that correct?

Mr. MARTIN (*Essex East*): Yes, very brief.



Mr. MACLEAN (*Queens*): I do not want to be repetitive but there is one more question I would like to ask. During the course of evidence a point was raised by myself, and I think by one or two other witnesses, regarding the fact that there is no limitation whatsoever in the bill on where a geographic co-ordinate can be. I realize the bill has been passed without amendment by the Senate already, but I would just like to state again that from a legislative point of view I think it is bad legislation to ask parliament to give much wider powers than those that are regarded as necessary at the time. I would just like to ask once more if any further consideration has been given to the possibility of putting some sort of general limitation on where these co-ordinates will be. In international agreements such as the Geneva conference it was stated that co-ordinates of this sort would have to be at lighthouses or on points of land at low water mark, or something of this sort. What I have in mind is a possibility of having a general limitation which would more closely coincide with what is contemplated at the present time rather than this blanket allowance to put co-ordinates anywhere. I realize that under the Coastal Fisheries Protection Act the powers are very wide as they now exist, but the Coastal Fisheries Protection Act came into force at a time when it was generally recognized that the territorial waters of the country were within the three mile limit, and now we are embarking on a new concept of wider fishing zones.

Mr. MARTIN (*Essex East*): The point that you make has been considered. It is just not possible to do otherwise when you are negotiating and when your baselines depend upon the consequences of those negotiations. I was trying to find the date of the statement I made in the house. You will find that all the countries that have engaged in the establishment of the straight baseline system have done it in exactly this way. This is true in the case of Iceland, Norway and Denmark. They have passed acts which have given discretion to the executive.

Mr. MACLEAN (*Queens*): I realize, Mr. Chairman, that they have passed enabling legislation allowing the government to proclaim the co-ordinates, but my point is not exactly that; my point is there should be some limitation on the powers of the government to set these geographic co-ordinates. I was endeavouring to make it easier for the government's negotiation, because I think the broad powers of this bill raise fears in the minds, perhaps, of the other countries. Apparently, at least in the minds of the air line companies, as already expressed by a witness before this committee, fears have been raised which are completely unjustified if the intention of the government is as has been stated by the minister, and no doubt it is. Nevertheless, the bill does not say that. If there was something in the bill to indicate in black and white that it is not our intention to embark on some very extravagant claims in respect of the territorial sea, or exclusive fishing zone, by following some of these co-ordinates well out to sea, or something of that sort, I think the people with whom we are negotiating would be reassured that our demands are reasonable.

Mr. MARTIN (*Essex East*): They will be reassured; in fact, some of them already have been. We do not intend to act in a way that would abuse international practice. There is jurisprudence of a limited kind for the establishment of the straight baselines. There is the Norwegian case; this will be observed. Our co-ordinates will be drawn, of course, as I have indicated, in accordance with international practice, and in accordance with international law.

I do not think it is necessary—although I appreciate your interest in this matter—for us to say in a bill that we intend to observe international practice. I believe it could be assumed that any government in Canada would not violate international practice as recognized by the courts. I appreciate your point, Mr. MacLean, and I assure you we do not intend to make outlandish claims which could not be justified in international law, or under the rule of common



decency. Of course, this does not mean that our position always will be agreed to.

Mr. PUGH: Have any proposed co-ordinates been objected to by any other nation?

Mr. MARTIN (*Essex East*): Some of the claims that we make naturally are being challenged, and they are part of the problems involved in the negotiations.

When you come to establishing a baseline system you have to make certain claims, and those claims, undoubtedly, can be the subject of considerable legal argument, and in some cases, perhaps, a different kind of argument.

Mr. Barnett, I would like to explain something which I said in the house the other day. You asked me when I was in Washington the other day whether I had had any discussions about this matter. I did not because I did not have time, but I was informed that the chief negotiator for the United States, Mr. Alexis Johnson, had gone to Indochina on another assignment and that there would be a new negotiator whom I know very well.

Mr. BARNETT: As a matter of fact, if there was time, I was going to ask the minister a question in connection with the answer he had given me in the house. Could the minister define for us a little more precisely than we have had yet the meaning of this phrase "no undue delay".

Mr. MARTIN (*Essex East*): No undue delay means no delay. After the bill has passed parliament, we have to pass some orders in council under the Coastal Fisheries Protection Act, and this takes some time; but there will be no delay.

Mr. BARNETT: Is it not in two parts; there is the question about the intention to proclaim?

Mr. MARTIN (*Essex East*): Are you talking about proclamation of the Act or establishment of baselines?

Mr. BARNETT: The statement made was that the proclamation and action under clause 4 of the bill would be taken immediately, but that the other part of the bill in respect of the baselines would be proclaimed without undue delay.

Mr. MARTIN (*Essex East*): The act as a whole will be proclaimed without any undue delay. That is all we can say. There is a certain amount of ministerial work to do which should not take more than a week or so. I do not quite understand why this concerns you.

Mr. BARNETT: Mr. Chairman, perhaps I might explain. As I understand it, the question of proclaiming what now is clause 5 of the bill, having to do with the establishment of the baselines, is dependant on the conclusion of the negotiations which have been going on.

Mr. MARTIN (*Essex East*): No. The whole bill will be proclaimed within a very short time after it has been assented to. That was the gist of the statement which I asked my colleague, the Minister of Fisheries, to make on June 18 last and which I read a few moments ago.

Mr. BARNETT: Then the conclusion of negotiations is related only, in so far as government thinking is concerned, to the actual proclamation by order in council of the baseline co-ordinates.

Mr. MARTIN (*Essex East*): I am saying there will be no delay in proclaiming the act within a very few days, once it has been assented to. With regard to the establishment of baselines, that is a matter which depends upon the success of the negotiations.

The CHAIRMAN: Are there any further questions?

Mr. MACLEAN (*Queens*): I move we adjourn.

The CHAIRMAN: Before I put the motion that we adjourn, perhaps I should bring up the subject of our next meeting. A meeting is scheduled for Thursday morning at 9.30. Should we attempt to meet before that, for instance, this afternoon or this evening?

Mr. MACLEAN (*Queens*): I doubt whether that would be very practicable. Tomorrow is a holiday. On the other hand, I do not wish to hold up the proceedings. I suppose the government is anxious to have the bill back in the house as quickly as possible.

Mr. MARTIN (*Essex East*): We would like, if possible, to have it so that we would be free by the fifteenth, because we think that would help us greatly.

Mr. BASFORD: Could we carry clause 1 today and consider the balance of the Bill on Thursday?

Mr. MACLEAN (*Queens*): I do not think there would be much advantage in that. I should think the bill would pass fairly quickly. If Thursday morning would be time enough, that would be most convenient to some of us.

The CHAIRMAN: Thank you, Mr. MacLean. May I have some other comments?

Mr. CASHIN: Thursday seems to be a good time.

The CHAIRMAN: Should we ask the witnesses to be present on Thursday?

Mr. BARNETT: Will I have the answers to my questions of fact?

Mr. MARTIN (*Essex East*): Mr. Ozere will obtain the information. Do I understand, Mr. Chairman, that I am relieved, because I cannot be here on Thursday?

Mr. MACLEAN (*Queens*): From my point of view I see no necessity for any of the witnesses to be present on Thursday.

Mr. BARNETT: I doubt whether I would be successful in extracting any further information from the minister other than what he has been kind enough to give me this morning.

Mr. MARTIN (*Essex East*): I would be very glad to give you anything I can, Mr. Barnett, without destroying the negotiations.

Mr. BASFORD: I move we adjourn until Thursday morning at 9.30, and that we do not require the witnesses to be present except those required to answer Mr. Barnett's questions.

The CHAIRMAN: It is moved by Mr. Basford, seconded by Mr. MacLean, that we adjourn until Thursday at 9.30 a.m. and that the witnesses will not be required.

Motion agreed to.

The CHAIRMAN: I might add, Mr. Martin, that much as we appreciate your presence, we think perhaps we can do without you. I am told by the other witnesses that they are going to come in any event unless we throw them out.

The meeting stands adjourned until 9.30 on Thursday morning.

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THURSDAY, July 2, 1964.

The CHAIRMAN: Gentlemen, we have a quorum. I think we should commence our meeting by asking Mr. Wershof to reply to some questions asked at our last meeting, the answers to which were not available at that time. I understand Mr. Wershof is prepared to give the answers at the present time.

Mr. M. H. WERSHOF (*Assistant Under Secretary of State for External Affairs*): Thank you Mr. Chairman. These answers are to two questions which Mr. Barnett asked.

The first question had reference to the treaty of 1783 between Britain and the United States. That was a treaty of peace after the war of independence and, among other things, the treaty had some clauses giving Canadian fishermen



certain fishing rights in United States territorial waters. As I think some of my colleagues have said on previous occasions, these rights have lapsed and I wanted to say that the precise reason for that lapsing is that the entire treaty of 1783 was abrogated by virtue of the breaking out of the war of 1812.

There is a general rule of international law, and occasionally there are exceptions to this rule, that bilateral treaties are automatically abrogated by the breaking out of war between the countries which are party to the agreement. The books are quite clear that both the United States and Britain deem that the 1783 treaty has simply been abrogated, and came to an end by virtue of the war of 1812. As all members appreciate, after the war of 1812 there was a new treaty of peace and there was a subsequent convention, parts of which are still in force, which give United States fishermen certain fishing rights in Canadian waters. Copies of the relevant extracts of that treaty were circulated some time ago to the members of this committee.

The other question which Mr. Barnett asked referred to the status of the treaty of 1846 between Britain and the United States, usually referred to as the Oregon treaty, which involved the Oregon boundary and included a clause in respect of the rights of navigation on the Columbia river. That treaty is still in force. It is regarded as being in force, as far as I know, by the United States. In fact, I do know that the United States regards that treaty as being in force, and we regard it as being in force. There has never been any argument about its validity up to the present time.

That treaty is not concerned with fishing but does have, however, a clause in respect of navigation.

Thank you, Mr. Chairman.

The CHAIRMAN: Are there any further questions?

Mr. BARNETT: Mr. Chairman, I did have another question which the minister suggested Mr. Ozere might be able to answer. My question had reference to the effect of the historic rights which the United States claims in respect of certain fisheries in Pacific waters off the west coast of Canada.

Mr. S. V. OZERE (*Assistant Deputy Minister, Department of Fisheries*): What is your question?

Mr. BARNETT: I asked Mr. Martin whether we could have a statement in some detail regarding the time sequence in areas such as Hecate strait and Queen Charlotte sound, in respect of the United States entry into the fisheries there. I also indicated that I did hear suggested at one point that the United States had discontinued fishing in those waters for a period of years. I have the impression this resulted from insistence on the part of Canadian authorities at that time, and in fact that United States authorities recognized this insistence. I am not certain whether that is a factual account of the situation or not but I feel it may be useful to have that situation clarified for the members of the committee.

Mr. OZERE: Mr. Chairman, there are several fisheries involved, the principal one being the halibut fishery. The United States fishermen have been engaged in fishing for halibut in Hecate strait since 1888, for the last 75 years. That is the oldest fishery established in Hecate strait.

Apart from that, they are engaged in trawling for ground fish. This practice dates back perhaps to 1938. They also established, about 1949, a crab fishery in Hecate strait but this crab fishery has not been very successful. Most of the crabs were being caught for canning off southeastern Alaska but because of some economic difficulties they pretty well discontinued it, and I think this fishery is practically non-existent at the present time.

Apart from that, there is one other fishery involving troll-caught salmon off the southwest part of Vancouver island. This dates back for quite a number of years, although we really have no record when it started.

Those are the main fisheries involved.

Mr. BARNETT: I was wondering whether Mr. Ozere has any precise information in respect of the auxiliary question I asked regarding whether or not at one time there had been action on the part of Canadian authorities requesting, compelling or otherwise inducing the United States to refrain from continuing any one of the fisheries you mentioned. I had particularly in mind fisheries inside the Hecate strait area which I imagine would involve ground fish, although I am not certain.

Mr. OZERE: The only record I was ever able to come across referred to the year 1908 when the government passed an order in council claiming Hecate strait as Canadian waters. At that time some question arose in respect of the seizure of a United States vessel. It was released but the order in council recites the fact that although Canada claims this to be Canadian waters we would not interfere with fishing by United States fishermen outside the three mile limit. In other words they were there by permission or tolerance of the Canadian government.

At the same time the order in council enjoins all captains of our patrol vessels not to do anything to prejudice our claim to these bodies of water.

Mr. BARNETT: Is that order in council still in effect or has it ever been revoked?

Mr. OZERE: It is a public document, yes.

Mr. BARNETT: That covers the question very nicely. Thank you Mr. Ozere. Thank you Mr. Chairman and, through you, Mr. Ozere.

The CHAIRMAN: Thank you.

If there are no further questions we will proceed to examine the bill clause by clause.

Mr. BARNETT: Mr. Chairman, I should like to make one comment in relation to the earlier statement about the treaty question because I intended, if I had been able to procure the information when Mr. Martin was present, to pose a question to Mr. Martin in respect of why the government had not offered to exchange the rights of navigation on the Columbia river, which certainly since the erection of the Grand Coulee dam is rather academic because there are no provisions for locks or other facilities for boats to pass over that dam, for these treaty rights to which I referred as being archaic. I merely wanted to make that statement for the record. I am not suggesting that we should ask Mr. Martin to come back later to discuss that, but it does seem to me that might have been a very logical exchange for Canada to have offered to the United States in view of the developments which have taken place since the time of the Oregon treaty and the fact that perhaps at the moment we do not have any real vital interest in navigation on the Columbia. Nevertheless, there is a right which apparently we still possess, which I think perhaps could have been used as a bargaining point in negotiations.

The CHAIRMAN: Are there any further questions?

In examining the bill clause by clause is it the wish of the committee for me to read the bill in its entirety or shall I despatch?

Mr. BARNETT: Before we proceed any further with examination of the clauses I have a motion which I would like to propose which, in effect, is a proposal for the committee to report on the bill at this stage. As far as the order of events is concerned, I think I would have to introduce it at this point. The proposal is fairly lengthy so I have had it prepared in sufficient numbers to be distributed to the members.



The general effect of this proposal would be that the committee should report that the bill be divided and that, in effect, we proceed immediately to recommend that the bill be drawn to give immediate effect to the 12 mile territorial sea or fishing zone, as has been requested by the government, but that we defer the enactment by parliament of any reference to the establishment of straight baselines until such time as the negotiations which the government has indicated it still wishes to carry on are concluded.

My colleagues in the New Democratic party and I are putting this resolution forward as a compromise proposal to the position which we took in the house when, as you will recall, we moved that the bill should not be proceeded with but that the subject matter be referred to this committee. I would like to have this proposal given consideration by the committee and I would hope that it might meet with the general approval of the committee inasmuch as it would indicate that we are prepared to go along with the government's suggestion if they feel the proclamation or declaration of a 12 mile zone would assist them and their position in negotiation.

The CHAIRMAN: Have you a seconder, Mr. Barnett?

Mr. MATHER: I will second the motion.

Mr. BARNETT: Shall I read the motion at this point?

The CHAIRMAN: Yes, please.

Mr. BARNETT: I move, seconded by Mr. Mather, that the committee report to the House on the following terms: (*see Minutes of Proceedings of July 2 page 214.*)

I might point out, Mr. Chairman, that the third point contained in this motion is not directly related to the bill; it is merely a suggestion that this committee urge upon the government that they attempt to negotiate a period for existing so-called fishing rights.

I think this is a recommendation from the committee that might be acceptable to the house. As I said, it is meeting the expressed desire of the government to have the authority of Parliament behind it in the immediate establishment of the 12 mile zone and, at the same time, it would meet the point that some of us have raised that a law which in effect establishes the official boundaries of our country should be set out in detail in an act of Parliament subject only to amendment by Parliament and, further, recognizes the position the government has indicated that until now they have been unable to conclude discussions that would ensure an amicable acceptance of Canada's position by the other nations involved.

The CHAIRMAN: Gentlemen, you have heard the motion proposed by Mr. Barnett and seconded by Mr. Mather. Are there any comments?

Mr. BASFORD: To adopt this resolution would have the effect of killing the present bill. It would then be taken as having been defeated and we would at this point be deprived of having legislation on the books to establish a 12 mile fishing zone and the principle of a straight baseline.

I am interested to learn that my friends in the New Democratic party are at this point proposing a report which would have the effect of killing this bill. It seems to me that the sooner we can have this legislation on the books, the sooner the government is given the enabling effect of sections 4 and 5 of the bill, the quicker the government of Canada will be able to protect our fisheries resources of the east and west coasts.

In connection with paragraph two of this resolution, I cannot see what other national interest of Canada is served by the enactment of a 12 mile territorial sea as opposed to the three and nine mile provisions of the present bill. The recommendations to the committee of the fisheries council were that it made absolutely no difference whether it was 12 miles, nine miles and three miles,

or six miles and six miles. No evidence has been brought before the committee to show that apart from the fishing interests any other national interest needs to be served by having a 12 mile territorial sea.

In the present legislation we are enacting a three mile territorial sea and a nine mile fishing zone which provides all the protection for our fisheries interests that is required or necessary, and there are no considerations of defence or pollution or sanitization or customs which require the 12 mile territorial sea. As has been made quite clear by the secretary of state, to accept the provisions of the last part of the report, the fourth and fifth paragraphs, would injure Canada in its present negotiating position. This is the purpose of bringing the bill in now. The purpose of putting it on the statute books now is to give other countries the knowledge that this legislation is here, that the government is able to act on it and is going to act. This is very necessary in our negotiations. In my opinion, Canada's negotiating position and interests would be detrimentally affected by removing this legislation.

To accept this report, I think, would harm our fishing interests very badly. Of course, as I suggested at the beginning, it would have the effect of killing the present bill. The legislative schedule is obvious; no other legislation would be brought in this summer and certainly nothing could be done until at least next fall. I would think there would be no chance of re-introducing any sort of legislation in this year, 1964.

I am interested to note that my friends in the New Democratic party are interested in putting forth a report, the acceptance of which would lead to no action being taken in this regard for at least another year.

The CHAIRMAN: Have you any comments to make, Mr. MacLean?

Mr. MACLEAN (*Queens*): Mr. Chairman, speaking for the members which represent the official opposition in this committee, I want to say that we as a party are in support of the principle of a 12 mile exclusive fishing zone and also are in support of the other effects that this bill hopes to achieve, such as the definite proclamation of certain bodies of water to be Canadian national or inland waters. During the period that I was minister of fisheries we worked strenuously toward this objective and although no direct fruits were gathered from these labours I think this still had to be done. This was a stage in the process of arriving at a wider area of exclusive fishing rights along our coasts for Canadian fishermen.

So far as this motion is concerned, although we have sympathy for some of its objectives, which I have said already in the committee, I think it is not a good principle to ask parliament to give such wide permissive powers to the government without knowing exactly how they expect to use these powers. I am referring to where these geographical co-ordinates are going to be. But, the fact remains that the ministers responsible have made statements to the effect that extravagant claims will not be made and that the passage of this bill will strengthen their negotiating position.

Although we have some reservations about the validity of those statements, especially the last one, nevertheless we must accept at face value the statements made by the responsible ministers.

We think too that Canada has an obligation to honour its treaty obligations and that we are not in a position to declare unilaterally that we are going to abrogate those treaty rights held by other nations at any particular time.

For those reasons and some others which I need not mention at the present time we will not support this motion although we do have sympathy with some of its objectives.

An hon. MEMBER: Question.

The CHAIRMAN: Have you a comment to make Mr. Mather?



Mr. MATHER: Mr. Chairman, in answer to some of the comments which have been made so far on our proposition I think we should make it clear that our intent in putting this resolution before the committee is to strengthen the position of the government in any aim it may have to establish a Canadian 12 mile fishing zone.

Our basic feeling is that the present bill does not do this. We think of it as something that has sort of an attractive package, the outside of which says it is going to establish a 12 mile fishing zone. This looks good from the outside, but one has to consider how little is spelled out in detail and how little meaning it has. I think most people in the fishing industry would agree that it leaves much to be desired. This is the way we feel about it.

So, what we are attempting to do in the resolution is to get immediate acceptance of the 12 mile fishing limit in principle and get on with that. But, in addition to that, we wish to retain for parliament further time and further abilities in order to go into the details of spelling out how this 12 mile zone is going to work. There is a great deal of concern, particularly on the west coast, among several sections of the fishing industry, in respect of the bill as presently drafted. As we have stated in the house and in this committee, legislation that has been put forward by the government is pretty well wide open. Someone referred to it being as wide open as a fishing net in respect of just exactly what the details of the legislation are going to be. For one thing, if it were passed in its present form it would allow for the continuation forever of the so-called historic fishing rights of certain other nationals on our west coast. In that event, the effect of this legislation could be even worse than no 12 mile fishing zone at all. This is one thing we have in mind. We are seeking to clarify, to straighten, and to strengthen the proposals before we endorse them. However, the first point is that we are entirely in agreement with this declaration of a 12 mile fishing zone, in principle.

The CHAIRMAN: Have you any further comments Mr. Barnett?

Mr. BARNETT: Well, just to expand a bit on what Mr. Mather just said and with reference, in particular, to the argument advanced by Mr. Basford, that this proposal would kill the bill, I would like to point out at once, as Mr. Mather has said, that that is not the intent. From the technical point of view I would suggest it is not the function of a standing committee of the house to draft government legislation.

Now, this is something we had in mind in considering the form in which we would bring in this proposal. In other words, we did not feel it proper for this committee to attempt to spell out in detail a draft government bill, but I think it is quite clear in my amendment that the suggestion is that the draftsman of the government could prepare without any material delay at all a new bill which would give effect to the proposal in respect of the 12 mile limit. I think it is quite clear from the position that has been taken by all members of the house who have participated in the discussion of the subject matter that such a bill brought into the house could be very quickly dealt with, and, I would suggest, without the need of coming back to this committee. I think it could be dealt with quickly through the various stages, including committee of the whole in the house. Therefore, it could be implemented without any delay under the proposed schedule of the government, which has suggested this is one of the matters that should be dealt with before the end of the present part of the current session.

The second point on which Mr. Basford put a good deal of emphasis was the effect the phrase, "the principle of the 12 mile territorial sea," would have. I think we have made it clear that we would prefer to see the 12 mile territorial sea. I agree with him that our main concern is the protection of the fishing interests and so far as I am concerned I would not be prepared to quibble unduly whether it is 3 and 9 or 6 and 6, or a straight 12. I admit the phrase "12 mile territorial sea" is used in this motion.



I may say that this is not a point in respect of which I consider any major emphasis should be made. In other words, as far as the 12 mile zone is concerned, if the government brought back a proposal, as it is contained in the present bill, we would not make any major issue of it, but I do suggest that the argument or objections raised by Mr. Basford are really not well founded in fact.

It seems to me that the only real area for discussion, in light of what has taken place, is in respect of the principle which Mr. Mather has mentioned, and which Mr. MacLean has touched upon, regarding the question of whether parliament itself should be the body which should establish and fix the baselines and co-ordinates after they have been established. I think this is an important matter and is perhaps the sort of consideration that should be in the minds of the members of the committee rather than any idea of raising a smokescreen in respect of technical problems in providing legislation which, I submit, should be dealt with very expeditiously after the committee adopts its report.

Mr. STEWART: Mr. Chairman, it was suggested earlier by Mr. Mather that there was a great deal of concern on the Canadian west coast in respect of the present bill. I must say that if that concern does exist there it was not made very evident in the proceedings of this committee. We had at least one witness from that part of Canada who tended to be opposed to the present bill, but I think an examination of what was said then would not lead one to believe that there was any very massive and precise opposition in respect of specific points. There was a general negative attitude expressed toward this legislation. If there is the kind of concern, about which Mr. Mather speaks, it is concern perhaps as a result of confusion rather than precision.

I should like to continue my remarks in respect of what is quite evidently the principal point of the motion, namely that all negotiations be concluded before any attempt is made to specify in law the baselines.

As Mr. MacLean has intimated, there is something to be said for a procedure which would conclude it with a statutory statement in respect of the baselines. However, there is much to be said on the other side of the situation.

Mr. MacLean weighs the considerations carefully and states he would like to see this done in the other way but he is prepared to settle for this bill. In my case I weigh the considerations and end up just a little stronger on the side of the proposal suggested by the bill. I do not see how we can very well conduct successful negotiations without the government having the kind of mandate it is seeking. I think that the procedure being followed now, while perhaps it is not as neat as one which would be terminated by a statutory act in respect of the baselines, is the best that can be obtained in the world of practice in which we must live.

Mr. Barnett has stated that if we accept this motion we will not be killing the present scheme of legislation. I think all of those who are familiar with the workings of our legislature will tend to disagree with him in that regard. The government has brought forth a bill. It has supported that bill and is trying to explain it, not to the satisfaction of all concerned, but as well as possible. I do not think there is any doubt in anyone's mind, certainly not in my own, that if this motion is accepted its effect will be to kill the present bill and will knock on the head the whole notion for which we have been striving for many years under one government or another. I do not know whether that is what Mr. Barnett has in mind, and I suspect it is not, but the consequence of accepting his motion will mean the killing of this bill and, Mr. Chairman, therefore his motion must be defeated.

Mr. BARNETT: I made it very clear that that was not the idea I had in mind.



Mr. McLEAN (*Charlotte*): I think the situation has been well covered by Mr. Basford, Mr. Stewart and Mr. MacLean (*Queens*), but it seems to me the principle of the 12 mile territorial sea would involve Canada immediately in a great deal of conflict with other nations. Fishing zones and territorial seas are different things, and the adoption of such a principle would have the immediate affect of bringing Canada into a great deal of conflict with other nations.

The CHAIRMAN: Thank you.

Some hon. MEMBERS: Question.

The CHAIRMAN: Before I put the motion I should like to know whether it is the wish of the committee that I read it again?

Some hon. MEMBERS: Dispense.

Mr. BARNETT: The motion has been read once, Mr. Chairman.

The CHAIRMAN: You have heard the motion proposed by Mr. Barnett, seconded by Mr. Mather. Those in favour of that motion please raise your right hands?

Those who are opposed raise your right hands?

Motion negatived.

I declare the motion lost.

We will now proceed to a discussion of the bill clause by clause. Is it the wish of the members of this committee that I read each clause in full?

Mr. CYR: No, Mr. Chairman.

Some hon. MEMBERS: No.

The CHAIRMAN: We will proceed with clause 1 of Bill No. S-17.

Clause 1 agreed to.

On clause 2:—*Applies to Acts of Parliament regulations, etc.*

Mr. BARNETT: Mr. Chairman, I should like to move that clause 2 be amended by adding immediately thereafter the following paragraph:

Repeal and Transitional.

On the first day of January, 1967, section 2 of this act is repealed and the following substituted therefor:

2. Every provision of this act extends and applies to every act of the parliament of Canada, now or hereafter passed, and to every order, rule or regulation thereunder.

Perhaps I should explain the intent of this proposal, Mr. Chairman. It would leave in effect the present clause 2 until January 1, 1967. It should be noted that the present clause 2 provides that the provisions of this bill extend to every act of the parliament of Canada except in so far as any such provision is inconsistent with the intent or object of such act. By adding this proposed amendment to the bill its effect would be that on January 1, 1967, this bill would apply without exception to every act of Canada, and the effect of that would be, for example, to override the present provisions of the Coastal Fisheries Protection Act which gives the government authority to make arrangements for foreign fishing vessels to be licensed to fish. In other words, the intent of the amendment is to put a termination date in the act for the phasing out period of fishing rights within Canadian waters by vessels of other nations.

The CHAIRMAN: Do we have a seconder?

Mr. MATHER: I second the motion.

The CHAIRMAN: It has been moved by Mr. Barnett, seconded by Mr. Mather, that clause 2 be amended by adding immediately thereafter the following paragraph:

Every provision of this act extends and applies to every act of the parliament of Canada, now or hereafter passed, and to every order, rule or regulation thereunder.

Are there any comments?

Mr. BASFORD: Mr. Chairman, the effect of the amendment would be that after 1967 this act would apply, or attempt to be applied regardless of what parliament might decide in 1968 or some other year in respect of another act, and I do not think an amendment having the effect of this parliament binding the hands of a parliament three sessions away is a good amendment.

The CHAIRMAN: Those in favour of the motion proposed by Mr. Barnett, seconded by Mr. Mather please raise your right hands?

Those opposed please raise your hands?

Motion negatived.

I declare the motion lost.

Clause 2 agreed to.

On clause 3—*Territorial sea*.

Mr. BARNETT: Mr. Chairman, I judge from the way the votes have been going that the amendments which I may be proposing may not receive wide support but at least for the record I should like to move in respect of clause 3 that it be amended by deleting the word "three" in line 20 thereof and substituting therefor the word "twelve". This would have the effect of establishing a 12 mile territorial sea.

Mr. MATHER: I second the proposal.

The CHAIRMAN: It is moved by Mr. Barnett and seconded by Mr. Mather that clause 3 be amended by deleting the word "three" in line 20 thereof and substituting therefor the word "twelve". Are there any comments?

Mr. BASFORD: Mr. Chairman, I think all of us on this committee are interested in protecting the fishery resources of Canada. The present legislation provides a 12 mile fishing zone for Canada to be measured from straight baselines. We have had the evidence from the minister that the 12 mile fishery zone will indeed protect all aspects of the fishing industry in so far as it is possible so to do. We have had the evidence of the fishing council of Canada that it is immaterial to them whether it be a 12 mile formula, a six and six mile formula or a nine and three mile formula; it is immaterial to them as long as they have a 12 mile fishing zone. The 12 mile fishing zone is their concern and that is what the legislation provides.

It has been made clear to the committee that, as I stated a little while ago, there is no other national interest which requires a 12 mile territorial sea. We do not need a 12 mile territorial sea at this time for defence or pollution or sanitation or customs, or any national interest other than fisheries; and fisheries are protected by the 12 mile fishing zone.

I would suggest that to endeavour to legislate at this time for a 12 mile territorial sea may well have the effect of damaging our fishing interests by leading to new objections being taken by nations with whom we are negotiating.

We are asking here only for a fishing zone. I suggest that in negotiating it is possibly easier for Canada to get a better deal for our fishing industry by asking only for a fishing zone rather than for a 12 mile exclusive territorial sea.

To force the government now to negotiate on the basis of a 12 mile territorial sea may well affect the negotiations and have an adverse effect on our fishing industry in that the government may not be able to negotiate quite so well.

Mr. MACLEAN (*Queens*): In addition may I point out that an extensive territorial sea would lay additional responsibilities upon Canada which, in my judgment, would have no advantages and would have certain disadvantages. We would have obligations in connection with a 12 mile territorial sea brought about by provisions that are not required. Therefore I do not support the amendment.



We have had a statement from one of the ministers to the effect that it will be possible to support a 12 mile fishing zone and, in that case, the exclusive fishing zone meets our requirements.

Mr. CYR: Question.

Mr. BARNETT: My concern in this situation, as that of other members of the committee, is primarily with the fishing question. However, I do feel it would be a much tidier arrangement if this were established as a clear cut boundary. I foresee that there may be complications in this dual form of jurisdiction which I think could be avoided if the amendment were to carry.

It has been contended, of course, that our national requirements are not such that make this really imperative. On the other hand, I cannot see that the requirements of other nations are such that their interests would be particularly adversely affected if we were to extend our 12 mile territorial sea beyond the traditional three mile cannon shot limit, which I think all agree is a rather archaic concept in this day of guided missiles! A 12 mile zone, of course, would not prevent any shots landing on our shores fired from the high seas if fired at that distance.

However, my thinking in making the suggestion is that we would have a clear cut understanding and everyone would know that the law of Canada became effective at this point as far as this is concerned; and it is with that in mind that we put forward this resolution.

Mr. CYR: Question.

The CHAIRMAN: Will those in favour of the amendment proposed by Mr. Barnett and seconded by Mr. Mather that clause 3 be amended by the deletion of the word "three" in line 20 thereof and substituting therefor the word "twelve", please so indicate.

Motion negatived.

I declare the amendment lost.

Shall clause 3 carry?

Clause 3 agreed to.

Shall clause 4 carry?

On clause 4—*Fishing zones*.

Mr. BARNETT: In view of the rather limited manner in which we debated the last proposal, I hope the committee members will agree that we are not attempting to establish any debating filibuster here, but nevertheless, Mr. Chairman, there are certain points we do want to establish by making some of these amendments.

I would like to move that subclause (2) of clause 4 be amended by deleting in line 12 thereof the words "Unless otherwise specified therein". That would make subclause (2) read simply:

- (2) The laws of Canada respecting fishing and the exploitation of the living resources of the sea apply to the fishing zones of Canada in the same way and to the same extent as they apply to the territorial sea of Canada.

In other words, that would give the bill overriding jurisdiction when it becomes law.

The CHAIRMAN: Is there a seconder?

Mr. MATHER: I second the motion.

The CHAIRMAN: It is moved by Mr. Barnett, seconded by Mr. Mather, that subclause (2) of clause 4 be amended by deleting, in line 12 thereof, the words "Unless otherwise specified therein".

Are there any comments?

Mr. MATHER: Mr. Chairman, may I add a word or two? It is a very clear cut and simple proposition. The effect of it if endorsed and added to the proposal would be to put some teeth into the legislation, something that we in our group feel is sadly lacking in many respects of this bill. This is our whole intent in these amendments. Our intention is to strengthen what we hope will emerge as a 12 mile fishing act.

The CHAIRMAN: Are there any further comments?

The following amendment has been moved by Mr. Barnett and seconded by Mr. Mather, that:

Subclause (2) of clause 4 be amended by deleting in line 12 thereof the words "Unless otherwise specified therein".

Will those who support the amendment please indicate?

Motion negatived.

I declare the amendment lost.

Shall clause 4 carry?

Clause 4 agreed to.

Shall clause 5 carry?

On Clause 5—*List of geographical co-ordinates.*

Mr. MACLEAN (*Queens*): I would like in passing, to comment on clause 5. I will possibly raise the point again when the bill is before the house.

Some commitment should be made by the government—I know it cannot be made here—so that, when the co-ordinates are established by orders in council, the orders in council will be tabled in the house or that the house will be given some official notice of the action of the government in this respect under the powers given to the government by this act.

Mr. STEWART: Would that not be required under the regulations act?

Mr. MACLEAN (*Queens*): I do not think so. I am not certain of this.

Mr. STEWART: I think Mr. MacLean has a very good point there, Mr. Chairman.

Mr. BARNETT: Mr. Chairman, I have an amendment to propose to clause 5, which of course is the clause which authorizes the governor in council to establish the geographical co-ordinates on which baselines will be determined. This, of course, is the principle of allowing these co-ordinates to be determined by governor in council, to which a number of members in the house have taken exception.

I would like to move that subclause (1) of clause 5 be deleted and that the following be substituted therefor:

- (1) The geographical co-ordinates of points listed in the schedule to this act are hereby established as the geographical co-ordinates of points from which baselines shall be determined.

I further move that subclause (2) of clause 5 be deleted and that the following be substituted therefor:

- (2) Subject to any exceptions to the geographical co-ordinates of points so listed for the use of the low water line along the coast as the baseline between given points, baselines are straight lines joining the consecutive geographical co-ordinates of points so listed.

I further move that subclause (3) of clause 5 be deleted and that the following be substituted therefor:

- (3) In respect of any area not provided for in the schedule and until such time as geographical co-ordinates of points for such area are determined, the baselines shall remain those applicable immediately before the coming into force of this section.



Mr. MATHER: I wish to second the motion.

Mr. BARNETT: In this connection, Mr. Chairman, I may say that I have prepared a proposed schedule which perhaps I should move as part of this present motion because without the schedule, as is mentioned in the proposed clause 5, the motion is not too meaningful. I do not know whether the committee would desire me to spell this out. It lists points for both east and west coasts of Canada with co-ordinated longitude and latitude to those points.

Mr. BASFORD: Mr. Chairman, on a point of order, we have an amendment to clause 5 which would provide fixed co-ordinates in a schedule to the act. We should not have the schedule at this point; we come to that at the end. As I say, this amendment deals with the principle of co-ordinates in the act.

Mr. BARNETT: Mr. Chairman, I do not want to engage in any lengthy discussions on a point of order, but I would like to make it clear that I have prepared a schedule which is referred to in the amendment. In other words, it is not out of thin air.

For the information of the committee I am saying, that generally speaking, the points referred to in this suggested schedule are points which coincide with the baseline co-ordinates as suggested in the map that has been attached to the proceedings of this committee as well as to the proceedings of the committee held in the Senate, and along the lines proposed by the brief of the fisheries council of Canada.

The CHAIRMAN: I think that the amendment read by Mr. Barnett and provided to me makes the principle of his amendment clear without the details of the schedule.

Are there any further comments?

Mr. STEWART: Mr. Chairman, this amendment to clause 5 attempts to do in another way what Mr. Barnett's proposal earlier attempted to do; in other words, it attempts to enact by statute what the present bill would permit the government to do by order in council.

I think the committee has explored the pros and cons of those two alternate procedures fairly thoroughly and it seems to me we already have decided on this question by defeating Mr. Barnett's earlier motion.

I have one additional comment to make, which concerns the list of co-ordinates which he says he has. He says these conform to a very great extent to those proposed by the fisheries Council of Canada. You will recall when that council was here they were examined carefully as to how they arrived at their co-ordinates shown in their maps and they were very indefinite. They were not prepared to tell us whether they had looked into Canada's legal rights to certain of the waters which they were including within these co-ordinates. They were not prepared to tell us whether they just took a ruler and drew lines from distant headland to distant headland. This was a very preliminary approach to this whole problem. Consequently, I think Mr. Barnett's own authority for the list of co-ordinates would be just as good as that of the fisheries council of Canada in this particular case, and I base my comment on the evidence given by the fisheries council of Canada when they appeared before this committee.

Mr. BARNETT: Mr. Chairman, in reply to that, I made it clear these were based, in general, upon the outline of the fisheries council of Canada proposal, but I might say that the co-ordinates, as I would propose them in the schedule, is the result of a little further work on this subject.

Mr. STEWART: Yes, this is exactly my point; your own authority is sufficient in this connection.

Mr. BARNETT: Well, yes, my own authority based on the best advice on this subject that I was able to get. I think it is clear, from statements that have been made by the ministers, that that general outline of co-ordinates is in keeping with the point at least from which negotiations have been carried on.

I would like to point out one more difference between dealing with this proposed amendment and my earlier proposal, and it is only to the failure of that earlier proposal that I am proposing this amendment. Of course, the difference is if this amendment carries and the schedule, as I have indicated, were adopted we, in effect, are saying this is it, whereas my earlier proposal, as I tried to make it clear, left the way open for further negotiations prior to any final decision being made. I suggested at the time this was, in effect, a compromise or a recognition on my part that the government has said they still have negotiations they want to carry on. I was hopeful the committee would have agreed to the earlier proposal but, since it failed, I wanted to make it clear again that we consider this something which should be set forth in the bill before it passes parliament.

I might just add that the extended verbiage of the amendment was designed to give recognition to the fact there may be some unprovided cases and also that there may be situations where a proposal would impinge on or overlap the possible jurisdiction of a bordering power and that in this kind of situation the governor in council should have the authority to reach an appropriate arrangement. For example, that situation might occur close to the British Columbia-Alaska boundary or close to the boundary between Canada and the state of Washington and, I suppose, in other situations on the east coast.

I want to make it clear that the amendment is proposing that the basic principle of the establishment of a boundary should be set out in the act and that the boundary should be defined except in those small areas of overlapping jurisdiction which might occur close to the boundaries of other countries. Of course, the same situation would occur in connection with the boundaries between the French islands and the coast of Newfoundland.

Mr. BASFORD: Mr. Chairman, I have had some difficulty following Mr. Barnett's reasoning because, firstly, in his composite amendment at the beginning, which was not to pass the bill but to submit a quite different report, he provides that the baselines shall be established by negotiation. And, in the proposed amendment to clause 5 which, for all practical purposes, precludes any negotiation at the present time, like the other amendment we have had from Mr. Barnett, while I am the first to concede I know that it is not his intent, I think the effect of this amendment would run the risk of adversely affecting our fishing industry because it seems to me that the amendment proposed in respect of clause 5, if accepted, would establish once and for all the geographical co-ordinates for the baselines when I think it is fair to say it has become a recognized principle of international law that the drawing of baselines is a permissive procedure but the establishment of any given co-ordinates is always open to challenge.

It seems to me if we were to establish here and now these co-ordinates without reference to negotiation, then any of those given co-ordinates would be open to challenge in our own courts or the international court of justice and, as I said, they would run the risk of being thrown out by the international court of justice, which would have the effect of adversely affecting our fishing interests. Therefore, it seems to me if any given co-ordinates are open to challenge that our fishing interests are best served by negotiating the acceptance of those co-ordinates so they cannot be challenged. The procedure being envisioned in the bill before us is such that the government can negotiate with interested foreign governments the co-ordinates that will give to our industry the greatest possible degree of protection.

The effect of the amendment, I suggest—and, I am the first to recognize, as I say, that this is not the intent of Mr. Barnett—would be to run the risk that these co-ordinates he is establishing could be challenged and that this would affect adversely our fishing industry.



Mr. MATHER: Mr. Chairman, I think the intent and the effect of the proposed amendment to this clause would have the result of strengthening and stiffening the legislation and, therefore, benefitting the fishing industry of the country. As the matter is left under the proposed clause of the bill the matter of drawing these borders is pretty well left to order in council and I think many people in this country agree that this is not the best type of legislation. When you leave it to what amounts to an order in council decision this means that the result will be in line with the pressures put upon the government by those concerned.

We think that the Canadian fishing industry will be in a much better position if in this legislation we took a stand and spelled out at least the basis of our lines to negotiate while we submit, as my colleague has, a detailed list of co-ordinates. I think instead of leaving it to order in council to decide we should draw a line and say: "Let us negotiate on that basis". I think that is indeed our position, and if the amendments are endorsed, instead of leaving it to a matter of an order in council and the pressures put upon the people in that connection we will spell something out and, therefore, be in a better position to make it stick and negotiate from there on.

Mr. BARNETT: May I also point out that the adoption of this amendment still would leave open for negotiation the question of historic fishing rights, which I consider to be a proper area of negotiation with those countries which feel they have established such rights. There is the whole question of the phasing out. Recognition of Canadian fisheries conservation and other regulations during such a period still is and should be a proper subject of negotiation.

I also would point out that all clauses of a bill are amendable by parliament, and if it became apparent at any one point that we have gone beyond the practice of international law in respect of the establishment of one or more of these co-ordinates the government could request and parliament could act in making amendments to those which were established originally. So, I would suggest that the fears that have been expressed by Mr. Basford are not to be taken too seriously at this point. If we do establish these baselines by act of parliament, then the other countries who may feel they are affected by this act know exactly where they stand and can make proper representations on it, if they so desire. But, the thing that has concerned me, from statements which have been made up until now, at least in respect of government policy in this connection, is that by implication at least they have indicated some willingness to negotiate back from the suggested baselines that have been outlined in rough on the maps submitted by the fisheries council.

In looking at the problem it would seem to me that this proposal involves an eminently reasonable arrangement as far as our baselines are concerned, and I feel the members of this committee should have no hesitation in saying that these are the baselines we are prepared to recommend that parliament adopt, and then let the government take the matter further.

Mr. MACLEAN (*Queens*): Mr. Chairman, it seems to me that the responsibility for negotiating the geographical co-ordinates is that of the government. While we would have preferred the government to have completed negotiations and then present the results of those negotiations to parliament in respect of the legislation brought forward, we do not feel that this committee has the right to arrogate to itself government responsibilities.

Mr. BARNETT: Mr. Chairman, I should add to that suggestion that this proposal was only brought in as a last resort as a result of the failure of the government to submit a detailed report to this committee. I may repeat my argument in the House of Commons, that this matter should be in fact not brought to a decision in a committee until such time as the government has completed negotiations and submitted a concrete proposal to us.

The CHAIRMAN: The amendment proposed by Mr. Barnett, seconded by Mr. Mather is as follows:

Strike out subclause (1) of clause 5 and substitute therefor the following:

‘(1) The geographical co-ordinates of points listed in the schedule of the act are hereby established as the geographical co-ordinates of points from which baselines shall be determined.’

Strike out subclause (2) of clause 5 and substitute therefore the following:

‘(2) subject to any exceptions to the geographical co-ordinates of points so listed for the use of the low water line along the coast as the baseline between given points, baselines are straight lines joining the consecutive geographical co-ordinates of points so listed.’

Strike out subclause (3) of clause 5 and substitute therefore the following:

‘(3) in respect of any area not provided for in the schedule and until such time as geographical co-ordinates of points for such areas are determined, baselines remain those applicable immediately before the coming into force of this section.’

Those in favour of the amendment please raise your right hands? Those opposed please raise your right hands?

I declare the motion lost.

Motion negatived.

Clause 5 agreed to.

Clauses 6 to 11, inclusive, agreed to.

On Clause 12:—*Canadian fisheries waters.*

Mr. CROUSE: Mr. Chairman, this clause changes the wording from “territorial waters of Canada” to “Canadian fisheries waters”, and the manner in which this part of the fisheries act is worded legally prohibits the landing of scallops caught on the high seas when the inshore fishing grounds for scallops are closed. This also applies to lobsters caught on the high seas. I suggest this is discriminating against our deep sea fishermen.

It is evident to me that this entire clause must be amended so that control of inshore fisheries can be maintained, especially where scallops and lobsters are concerned, by licensing any deep sea operator to whom this clause may apply.

I therefore move, seconded by Mr. MacLean (Queens), that clause 12 be amended by adding the following words after “fishing” in line 29:

—unless such deep sea fishing operation or ship is properly licensed by the federal government.

The CHAIRMAN: It has been moved by Mr. Crouse, seconded by Mr. MacLean (Queens), that clause 12 be amended by adding an amendment to section 31, adding the following words after “fishing” in line 29:

—unless such deep sea fishing operation or ship is properly licensed by the federal government.

Are there any comments in this regard?

Mr. BARNETT: Mr. Chairman, perhaps Mr. Crouse could expand on his explanation indicating the effect of his amendment.

Mr. CROUSE: Perhaps I should begin by reading section 31 of the Fisheries Act so that it will be clearly on the record. It states:

No one shall leave any port or place in Canada to fish outside the territorial waters of Canada for fish the catching of which is at such time prohibited in the territorial waters of Canada opposite to or nearest



the place where such person proposes to fish, and no one shall bring into Canada any fish caught outside *the territorial waters of Canada* when fishing for such fish is prohibited inside *the territorial waters of Canada* opposite or nearest to the place where such fish was caught, or shall bring into Canada any vessels, boats, nets, fishing gear, implements or appliances used in such fishing.

At the present time certain inshore areas are closed at certain seasons of the year for the catching of scallops. If the federal government so desired it could prohibit the landing of deep sea scallops under this clause because it prohibits the landing at any port or place in Canada fish that are caught outside our Canadian territorial waters when the inshore fishing banks are closed. On the east coast we have a large deep sea scallop industry, and this faulty wording could lead to a prohibition in respect of deep sea scallops or lobsters. In my view the addition of the words I suggested “—unless such deep sea fishing operation or ship is properly licensed by the federal government” would give the federal government control of all deep sea operators under a licence carrying a nominal fee of \$1 or \$5. This would give the government control in respect of deep sea operations, and anyone wishing to catch deep sea scallops or lobsters could apply and obtain a licence. Any deep sea fishing operator would be licensed to fish for lobsters and scallops during the 12 month period and land them under that licence. This would give the federal government control of these operations.

Any small inshore operator endeavouring to catch scallops or lobsters would similarly have to report his catch on his inshore licence.

Mr. Chairman, in my opinion the addition of these words would eliminate the anomaly in the present legislation and give government control over this industry.

Mr. BASFORD: Mr. Chairman, I listened at our last meeting with a great deal of interest to the questions asked by Mr. MacLean and Mr. Crouse in respect of this particular subject, and I certainly understand and appreciate their point of view. There are two or three points I should like to mention.

Firstly, the consequential amendment to the Fisheries Act as proposed in clause 12 would in no way affect the existing law. If clause 12 was left out of this bill there would be no change in the present situation. Clause 12 involves a consequential amendment making the words in respect of territorial waters comply with the new words which will come into effect by reason of Bill No. S-17.

I am sure that section 31 of the Fisheries Act is in existence for the purpose of policing the act, so to speak. I can envisage a situation on the west coast where salmon fishing is closed in our own waters at certain times of the year, and of course we cannot close this fishery on the high seas, but it would be impossible for our protection and conservation officers to decide whether fishermen had caught the salmon inside our waters or in the deep sea. Therefore section 31 is necessary as a protection and conservation measure. That is the reason for clause 31, as I understand the situation.

There seems to me to be some technical problems in connection with the proposed amendment, and while I appreciate the sentiment behind it I must point out that it includes the words “unless such deep sea fishing operation—” yet there is no mention of a deep sea fishing operation at the present time in section 31. I presume these words are supposed to have reference to the rest of the clause but in fact there is no reference in section 31 to deep sea fishing operations.

The proposed amendment also says “unless such deep sea fishing operation or ship is properly licensed by the federal government.” It would seem to me that any such licence would have to spell out that to which it refers, such as the Canada Shipping Act, or the Canadian Fisheries Act.



The phrase "properly licensed" is very loose and would be very difficult to interpret by anyone because of the technical points I have raised. These are technical points rather than objections to the sentiment behind the amendment. I feel that this proposed amendment should be submitted to the law officers of the crown for an opinion regarding whether the act should be amended in this way and, if so, a draft amendment prepared involving better wording than contained in the suggested amendment.

The CHAIRMAN: Perhaps I could suggest that in view of the fact Mr. Ozere and other officials are present we could ask them to give some opinion in respect of this proposed amendment. Does anyone desire to have further details in this regard?

Mr. STEWART: I do not know whether it is appropriate for us to go back again to that position of our consideration of this bill where we have witnesses appearing before us, but I should like to say that we have been instructed by the House of Commons to consider a bill with certain stated purposes. We are now considering clause 12 which is concerned with applying the consequences of the general proposal for legislation to another act of parliament.

I doubt very much, Mr. Chairman, whether we as a committee have any right to go beyond our terms of reference. Mr. Crouse's amendment is one with which I suppose several of us would have great sympathy, but I doubt whether it would be in order to consider that amendment until such time as the committee had been instructed by the House of Commons to deal with the fishing act in its substance. We have been instructed here to deal with this particular bill, and this particular bill concerns certain consequences for the Fisheries Act of the proposed divisions of the territorial sea and fishing zones of Canada.

My point would be, Mr. Chairman, that I doubt the competence of the committee to report a motion such as that made by Mr. Crouse to the House of Commons in view of our terms of reference.

Mr. CROUSE: Mr. Chairman, it is not my wish to embarrass the committee in any way. I brought this forward so the committee would be aware of the manner in which this wording in the present Fisheries Act affects the deep sea fishing operation in so far as the catching of lobsters and scallops, are concerned. I believe it would be advisable for the legal branch of the fisheries department to review the Fisheries Act and to make some changes that would be acceptable and would properly amend the act to cover the deficiency which I have pointed out.

Therefore, with the concurrence of the committee, having brought this to the committee's attention, I would withdraw my motion.

The CHAIRMAN: Thank you very much, Mr. Crouse. Does the seconder consent to the withdrawal of the motion?

Mr. MACLEAN (*Queens*): Yes.

Mr. BARNETT: In connection with Mr. Crouse's statement, while I think the committee would have authority—I do not know that I agree that it would be out of order for us to make such an amendment along the lines proposed in the Fisheries Act—there is some question in my mind of the advisability of the committee attempting to amend the substance of another act when the suggestions here are purely for consequential amendments. I think it would be more properly brought forward in a direct discussion for amendments to the Fisheries Act. Certainly, considering the explanation we have had, I think serious consideration should be given to bringing this forward as a direct amendment to the Fisheries Act, possibly with any other amendments of substance that might be desirable in that act itself.

The CHAIRMAN: Shall clause 12 carry?

Clause 12 agreed to.



Shall clause 13 carry?

Clause 13 agreed to.

Mr. BARNETT: I would like your guidance in connection with the proposal that I had for a schedule to the bill. I am not quite sure of the position in regard to order. I have a proposal for a schedule which would perhaps not be too meaningful as an appendix to the bill unless the proposed amendment to clause 5 had carried. However, I propose that this schedule be included as part of the record of the proceedings of the committee. I feel that unless it is included the intent of my main amendment to clause 5 is perhaps not too clear.

I raise this matter at this point in order to see whether, without my going to the extent of reading all this lengthy and complicated list of points of latitude and longitude, it might be agreeable to the committee that this be attached to the proceedings of the committee.

Mr. BASFORD: Mr. Chairman, it would seem to me that it would be impossible for Mr. Barnett to move a schedule to an act which does not provide for a schedule. We now have passed all the sections of the act except the title, and the title does not provide for a schedule. Therefore, any motion to this effect would be out of order and, therefore, not being able to move it, I do not see how it can become a part of the proceedings.

Mr. BARNETT: I would be in order at some point—though not at this particular point—to move that this be included in the proceedings, but I thought I would like to raise this question now.

As I have already indicated, I recognize the problem that it could not be moved with any point as part of the bill, but I was wondering whether the consensus of the committee would be that they would be willing to accept the motion that it be included as part of the proceedings of the committee in order, as I say, to clarify exactly what I had in mind when I moved the amendment earlier.

Mr. MATHER: Mr. Chairman, I support this. As my colleague said when moving the amendment to the clause, we had proposed this list of co-ordinates. It was felt by you and the committee that it would be unnecessary to have them read because we were discussing the meaning of the amendment. We wish to have it on the record of the committee that we have prepared this list of co-ordinates and we wish to have them included as matters that were brought before the committee.

Mr. MACLEAN (*Queens*): I think Mr. Barnett's request is a reasonable one. I think if the committee can meet it and be in order, we should attempt to do so.

May I suggest that the committee consider the co-ordinates as having been read as part of Mr. Barnett's original motion and that it be incorporated in the record at that point? The fact that the motion has been defeated would mean, of course, that it would automatically be excluded from the bill. It would not be in the bill, but he is not proposing that it should be in the bill. In that way it would appear in the record at the point where he made his original motion. I think there should be no great objection to that.

The CHAIRMAN: Is the committee agreed that this be considered as part of the original motion?

Mr. BASFORD: No.

Mr. STEWART: We have made a decision that the bill is not to have a schedule. The question of what would be in the schedule would be a consequence of the decision to include such a schedule. I am sure Mr. Barnett's list of co-ordinates is very good; and I am sure that a list that Mr. Crouse might

propose would be even better, and I am sure that one Mr. Cashin would propose would be still better and more attractive. But this still does not mean they have to be on the record and published as part of the proceedings at public expense.

Mr. BARNETT: As far as I know, no members to whom reference has been made have actually prepared such a list of co-ordinates.

I might point out that it will not take up a great deal of space in the proceedings of the committee; it is quite short.

Mr. McLEAN (*Charlotte*): Was this ruled out of the original motion?

Mr. MATHER: It was said that it was unnecessary.

The CHAIRMAN: It was understood—at least I understood—that the motion as made gave sufficient explanation of the amendment without the addition of the schedule Mr. Barnett had prepared. That is what I said at the time and that is what I believed to be the case.

Mr. McLEAN (*Charlotte*): Were you at that time prepared to accept that as part of the motion?

The CHAIRMAN: I would have been open to advice on whether the schedule was admissible as part of the motion.

Mr. CROUSE: These suggested co-ordinates are entirely on the west coast?

Mr. BARNETT: No, they are prepared for the west coast and the east coast. There are 16 specific points mentioned on the list for the west coast and 54 specific points on the east coast. It gives a list of the names of the various points with their description by latitude and longitude.

Mr. McLEAN (*Charlotte*): I would not be prepared to vote on something I knew nothing about.

Mr. MATHER: The point is not whether the members would approve the schedule but whether they would approve the presentation of it.

Mr. BARNETT: I am not suggesting you should give approval of these points. It is simply a record of the points that I had in mind and had prepared as a schedule. I want it clearly on the record that I was not just moving an amendment out of thin air.

Mr. BASFORD: I am not too sure where we are in our proceedings. Is there a motion?

Mr. MATHER: Would it be in order to move that the co-ordinates be included in the proceedings? I so move.

Mr. BARNETT: I second the motion.

The CHAIRMAN: It is moved by Mr. Mather and seconded by Mr. Barnett that the list of co-ordinates as prepared be attached to the proceedings as an appendix.

Mr. BASFORD: We have a motion in front of us, and I think the point Mr. Stewart made earlier is a good one. We could all come here with a list of co-ordinates which would make us appear very good fellows at home and we could put them all in the record. I do not think we should be able to do that. Therefore, I would vote against the motion.

An hon. MEMBER: Question.

The CHAIRMAN: All those in favour of Mr. Barnett's motion? All those opposed?

Motion negatived.

I declare the motion lost.

Title agreed to.

The CHAIRMAN: Shall the bill carry?

Some hon. MEMBERS: Agreed.



The CHAIRMAN: Shall I report the bill without amendment?

Some hon. MEMBERS: Agreed.

The CHAIRMAN: I know that everyone is very busy but before adjourning I would like to thank briefly but very sincerely the witnesses, the Secretary of State for External Affairs, the Minister of Fisheries, the experts and officials from the various departments, the shorthand reporters, the personnel of the committee, the private legislation branch, the interpreters, the char staff, the messenger, those from the press who have come to cover our proceedings, and last but not least, the individual members of this committee for conducting these discussions with so much responsibility. It has been a pleasure to be in the chair for these meetings. Thanks again.

The committee will now adjourn until the call of the Chair as we have no further business referred to us at the present time.

Mr. BARNETT: Before we adjourn, Mr. Chairman, I think it should be on the record that we also thank our Chairman.





























